
SENATE BILL 6053

State of Washington 60th Legislature 2007 Regular Session

By Senators Spanel, Jacobsen, Haugen, Hargrove, Hatfield, Morton,
Murray, Fairley and Kohl-Welles

Read first time 02/15/2007. Referred to Committee on Natural
Resources, Ocean & Recreation.

1 AN ACT Relating to providing management authority over food fish
2 and shellfish resources to the director of fish and wildlife; amending
3 RCW 77.04.012, 77.04.040, 77.04.055, 77.04.130, 77.04.140, 77.04.160,
4 77.08.010, 77.08.022, 77.12.010, 77.12.020, 77.12.045, 77.12.047,
5 77.12.152, 77.12.275, 77.12.285, 77.12.320, 77.12.325, 77.12.330,
6 77.12.420, 77.12.455, 77.12.755, 77.12.865, 77.12.870, 77.12.875,
7 77.12.878, 77.12.879, 77.15.096, 77.15.120, 77.15.130, 77.15.160,
8 77.15.250, 77.15.253, 77.15.290, 77.15.530, 77.15.554, 77.15.590,
9 77.32.025, 77.32.070, 77.32.430, 77.32.500, 77.50.010, 77.50.020,
10 77.50.040, 77.50.050, 77.50.070, 77.50.090, 77.50.100, 77.50.110,
11 77.55.011, 77.55.081, 77.55.091, 77.55.191, 77.60.020, 77.60.030,
12 77.60.100, 77.60.110, 77.60.120, 77.60.150, 77.65.020, 77.65.030,
13 77.65.050, 77.65.070, 77.65.080, 77.65.090, 77.65.130, 77.65.160,
14 77.65.180, 77.65.310, 77.65.320, 77.65.350, 77.65.420, 77.65.510,
15 77.65.520, 77.70.010, 77.70.130, 77.70.150, 77.70.180, 77.70.190,
16 77.70.210, 77.70.330, 77.70.350, 77.70.400, 77.70.410, 77.70.420,
17 77.70.430, 77.70.450, 77.70.460, 77.70.470, 77.75.020, 77.75.040,
18 77.75.140, 77.85.220, 77.85.230, 77.95.010, 77.95.020, 77.95.030,
19 77.95.040, 77.95.060, 77.95.090, 77.95.100, 77.95.110, 77.95.140,
20 77.95.200, 77.95.210, 77.95.270, 77.95.300, 77.95.310, 77.100.040,
21 77.105.010, 77.105.020, 77.105.030, 77.105.040, 77.105.050, 77.105.060,

1 77.105.070, 77.105.090, 77.105.130, 77.115.010, 77.120.030, 77.120.040,
2 77.120.050, 77.120.060, 77.120.090, 77.125.040, 15.85.010, 16.36.005,
3 43.17.020, 69.30.070, 79.105.430, 79.135.030, 79.135.230, 79.135.320,
4 79.135.410, 87.84.061, and 90.03.360; creating new sections; and
5 repealing RCW 77.04.013.

6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

7 NEW SECTION. **Sec. 1.** The legislature finds that the state's food
8 fish and shellfish resources are of great cultural and economic value
9 to the state, providing benefits to commercial and recreational
10 fishers, resource-based communities, the tourism industry, and all the
11 citizens of Washington.

12 The legislature finds that management of this precious resource is
13 a challenging task that requires constant attention to issues including
14 habitat, biology, harvest, water quality and quantity, and monitoring.
15 Food fish and shellfish management also requires regular discussions
16 and negotiations with local, regional, national, international, and
17 tribal entities.

18 In order to achieve the long-term sustainability of Washington's
19 food fish and shellfish resource, the state must have a mechanism to
20 evaluate and hold the manager of this resource accountable for those
21 rules and policies adopted or foregone. The legislature finds that it
22 is in the best interest of both Washington and the resource to provide
23 management authority over food fish and shellfish to an individual who
24 has expertise in fisheries issues, who is available full time to
25 respond to matters involving the resource, and who may readily be held
26 accountable to the people of the state, to the legislature, and to the
27 governor.

28 Thus, the legislature intends for the director of fish and wildlife
29 to manage the state's food fish and shellfish resources. Further, the
30 legislature intends for the director to exercise all authorities and
31 rule-making power provided to the department regarding: Management and
32 harvest of food fish and shellfish; licensing and management of the
33 state's commercial fisheries; aquatic animal species infestations;
34 hydraulic project approvals and fishways; salmon enhancement and
35 recovery activities; aquaculture disease control; ballast water
36 management; and marine fin fish aquaculture programs.

1 NEW SECTION. **Sec. 2.** (1) This act transfers management authority
2 and rule-making power over food fish, shellfish, and other specified
3 matters from the fish and wildlife commission to the director of the
4 department of fish and wildlife. No substantive fish and wildlife
5 policy changes are intended.

6 (2) The transfer of management authority and rule-making power from
7 the fish and wildlife commission to the director of the department of
8 fish and wildlife provided for in this act does not invalidate policies
9 or rules adopted under the authority of the fish and wildlife
10 commission prior to the effective date of this section.

11 **Sec. 3.** RCW 77.04.012 and 2000 c 107 s 2 are each amended to read
12 as follows:

13 Wildlife, fish, and shellfish are the property of the state. The
14 commission, director, and the department shall preserve, protect,
15 perpetuate, and manage the wildlife and food fish, game fish, and
16 shellfish in state waters and offshore waters.

17 The department shall conserve the wildlife and food fish, game
18 fish, and shellfish resources in a manner that does not impair the
19 resource. In a manner consistent with this goal, the department shall
20 seek to maintain the economic well-being and stability of the fishing
21 industry in the state. The department shall promote orderly fisheries
22 and shall enhance and improve recreational and commercial fishing in
23 this state.

24 The ((~~commission~~)) department may authorize the taking of wildlife,
25 food fish, game fish, and shellfish only at times or places, or in
26 manners or quantities, as in the judgment of the ((~~commission~~))
27 department does not impair the supply of these resources.

28 The ((~~commission~~)) department shall attempt to maximize the public
29 recreational game fishing and hunting opportunities of all citizens,
30 including juvenile, ((~~disabled~~)) individuals with disabilities, and
31 senior citizens.

32 Recognizing that the management of our state wildlife, food fish,
33 game fish, and shellfish resources depends heavily on the assistance of
34 volunteers, the department shall work cooperatively with volunteer
35 groups and individuals to achieve the goals of this title to the
36 greatest extent possible.

1 Nothing in this title shall be construed to infringe on the right
2 of a private property owner to control the owner's private property.

3 **Sec. 4.** RCW 77.04.040 and 1995 1st sp.s. c 2 s 3 are each amended
4 to read as follows:

5 Persons eligible for appointment as members of the commission shall
6 have general knowledge of the habits and distribution of game fish and
7 wildlife and shall not hold another state, county, or municipal
8 elective or appointive office. In making these appointments, the
9 governor shall seek to maintain a balance reflecting all aspects of
10 game fish and wildlife, including representation recommended by
11 organized groups representing sportfishers, (~~commercial fishers,~~)
12 hunters, private landowners, and environmentalists. Persons eligible
13 for appointment as fish and wildlife commissioners shall comply with
14 the provisions of chapters 42.52 and 42.17 RCW.

15 **Sec. 5.** RCW 77.04.055 and 2000 c 107 s 204 are each amended to
16 read as follows:

17 (1) In establishing policies to preserve, protect, and perpetuate
18 wildlife, game fish, and wildlife and game fish habitat, the commission
19 shall meet annually with the governor to:

20 (a) Review and prescribe basic goals and objectives related to
21 those policies; and

22 (b) Review the performance of the department in implementing game
23 fish and wildlife policies.

24 The commission shall maximize fishing, hunting, and outdoor
25 recreational opportunities compatible with healthy and diverse game
26 fish and wildlife populations.

27 (2) The commission shall establish hunting seasons, trapping
28 seasons, and fishing seasons for game fish and prescribe the time,
29 place, manner, and methods that may be used to harvest or enjoy game
30 fish and wildlife.

31 (3) The (~~commission~~) director shall establish provisions
32 regulating food fish and shellfish as provided in RCW 77.12.047.

33 (4) The commission shall have final approval authority for tribal,
34 interstate, international, and any other department agreements relating
35 to game fish and wildlife. The director shall have final approval

1 authority for tribal, interstate, international, and any other
2 department agreements relating to food fish and shellfish.

3 (5) The commission and the director shall adopt rules to implement
4 the state's fish and wildlife laws.

5 (6) The (~~commission~~) director shall have final approval authority
6 for the department's budget proposals.

7 (7) The commission shall select its own staff (~~and shall appoint~~
8 ~~the director of the department~~). (~~The director and~~) Commission
9 staff shall serve at the pleasure of the commission.

10 **Sec. 6.** RCW 77.04.130 and 1995 1st sp.s. c 2 s 12 are each amended
11 to read as follows:

12 (1) Rules of the commission shall be adopted by the commission or
13 a designee in accordance with chapter 34.05 RCW. Rules of the director
14 shall be adopted by the director or a designee in accordance with
15 chapter 34.05 RCW.

16 (2) Rules of the commission or the director shall be admitted as
17 evidence in the courts of the state when accompanied by an affidavit
18 from the commission or the director, or a designee, certifying that the
19 rule has been lawfully adopted and the affidavit is prima facie
20 evidence of the adoption of the rule.

21 (3) The commission and the director may designate department
22 employees to act on the commission's and the director's behalf in the
23 adoption and certification of rules.

24 **Sec. 7.** RCW 77.04.140 and 1995 1st sp.s. c 2 s 13 are each amended
25 to read as follows:

26 Provisions of this title or rules of the commission or the director
27 shall not be printed in a pamphlet unless the pamphlet is clearly
28 marked as an unofficial version. This section does not apply to
29 printings approved by the commission or the director.

30 **Sec. 8.** RCW 77.04.160 and 2001 c 337 s 5 are each amended to read
31 as follows:

32 (1) The (~~department~~) director shall prepare an annual surplus
33 salmon report. This report shall include the disposition of adult
34 salmonids that have returned to salmonid hatchery facilities operated
35 under the jurisdiction of the state that:

1 (a) Have not been harvested; and

2 (b) Were not allowed to escape for natural spawning.

3 (2) The report shall include, by species, the number and estimated
4 weight of surplus salmon and steelhead and a description of the
5 disposition of the adult carcasses including, but not limited to, the
6 following categories:

7 (a) Disposed in landfills;

8 (b) Transferred to another government agency for reproductive
9 purposes;

10 (c) Sold to contract buyers in the round;

11 (d) Sold to contract buyers after spawning;

12 (e) Transferred to Native American tribes;

13 (f) Donated to food banks; and

14 (g) Used in stream nutrient enrichment programs.

15 (3) The report shall also include, by species, information on the
16 number of requests for viable salmon eggs, the number of these requests
17 that were granted and the number that were denied, the geographic areas
18 for which these requests were granted or denied, and a brief
19 explanation given for each denial of a request for viable salmon eggs.

20 (4) The report shall be included in the biennial state of the
21 salmon report required by RCW 77.85.020 and other similar state reports
22 on salmon.

23 (5) The report shall include an assessment of the infrastructure
24 needs and facility modifications necessary to implement chapter 337,
25 Laws of 2001.

26 **Sec. 9.** RCW 77.08.010 and 2005 c 104 s 1 are each amended to read
27 as follows:

28 As used in this title or rules adopted under this title, unless the
29 context clearly requires otherwise:

30 (1) "Director" means the director of fish and wildlife.

31 (2) "Department" means the department of fish and wildlife.

32 (3) "Commission" means the state fish and wildlife commission.

33 (4) "Person" means and includes an individual; a corporation; a
34 public or private entity or organization; a local, state, or federal
35 agency; all business organizations, including corporations and
36 partnerships; or a group of two or more individuals acting with a

1 common purpose whether acting in an individual, representative, or
2 official capacity.

3 (5) "Fish and wildlife officer" means a person appointed and
4 commissioned by the director, with authority to enforce this title and
5 rules adopted pursuant to this title, and other statutes as prescribed
6 by the legislature. Fish and wildlife officer includes a person
7 commissioned before June 11, 1998, as a wildlife agent or a fisheries
8 patrol officer.

9 (6) "Ex officio fish and wildlife officer" means a commissioned
10 officer of a municipal, county, state, or federal agency having as its
11 primary function the enforcement of criminal laws in general, while the
12 officer is in the appropriate jurisdiction. The term "ex officio fish
13 and wildlife officer" includes special agents of the national marine
14 fisheries service, state parks commissioned officers, United States
15 fish and wildlife special agents, department of natural resources
16 enforcement officers, and United States forest service officers, while
17 the agents and officers are within their respective jurisdictions.

18 (7) "To hunt" and its derivatives means an effort to kill, injure,
19 capture, or harass a wild animal or wild bird.

20 (8) "To trap" and its derivatives means a method of hunting using
21 devices to capture wild animals or wild birds.

22 (9) "To fish," "to harvest," and "to take," and their derivatives
23 means an effort to kill, injure, harass, or catch a fish or shellfish.

24 (10) "Open season" means those times, manners of taking, and places
25 or waters established by rule of the commission or the director for the
26 lawful hunting, fishing, taking, or possession of game animals, game
27 birds, game fish, food fish, or shellfish that conform to the special
28 restrictions or physical descriptions established by rule of the
29 commission or the director or that have otherwise been deemed legal to
30 hunt, fish, take, harvest, or possess by rule of the commission or the
31 director. "Open season" includes the first and last days of the
32 established time.

33 (11) "Closed season" means all times, manners of taking, and places
34 or waters other than those established by rule of the commission or the
35 director as an open season. "Closed season" also means all hunting,
36 fishing, taking, or possession of game animals, game birds, game fish,
37 food fish, or shellfish that do not conform to the special restrictions
38 or physical descriptions established by rule of the commission or the

1 director as an open season or that have not otherwise been deemed legal
2 to hunt, fish, take, harvest, or possess by rule of the commission or
3 the director as an open season.

4 (12) "Closed area" means a place where the hunting of some or all
5 species of wild animals or wild birds is prohibited.

6 (13) "Closed waters" means all or part of a lake, river, stream, or
7 other body of water, where fishing or harvesting is prohibited.

8 (14) "Game reserve" means a closed area where hunting for all wild
9 animals and wild birds is prohibited.

10 (15) "Bag limit" means the maximum number of game animals, game
11 birds, or game fish which may be taken, caught, killed, or possessed by
12 a person, as specified by rule of the commission for a particular
13 period of time, or as to size, sex, or species.

14 (16) "Wildlife" means all species of the animal kingdom whose
15 members exist in Washington in a wild state. This includes but is not
16 limited to mammals, birds, reptiles, amphibians, fish, and
17 invertebrates. The term "wildlife" does not include feral domestic
18 mammals, old world rats and mice of the family Muridae of the order
19 Rodentia, or those fish, shellfish, and marine invertebrates classified
20 as food fish or shellfish by the director. The term "wildlife"
21 includes all stages of development and the bodily parts of wildlife
22 members.

23 (17) "Wild animals" means those species of the class Mammalia whose
24 members exist in Washington in a wild state and the species *Rana*
25 *catesbeiana* (bullfrog). The term "wild animal" does not include feral
26 domestic mammals or old world rats and mice of the family Muridae of
27 the order Rodentia.

28 (18) "Wild birds" means those species of the class Aves whose
29 members exist in Washington in a wild state.

30 (19) "Protected wildlife" means wildlife designated by the
31 commission that shall not be hunted or fished.

32 (20) "Endangered species" means wildlife designated by the
33 commission as seriously threatened with extinction.

34 (21) "Game animals" means wild animals that shall not be hunted
35 except as authorized by the commission.

36 (22) "Fur-bearing animals" means game animals that shall not be
37 trapped except as authorized by the commission.

1 (23) "Game birds" means wild birds that shall not be hunted except
2 as authorized by the commission.

3 (24) "Predatory birds" means wild birds that may be hunted
4 throughout the year as authorized by the commission.

5 (25) "Deleterious exotic wildlife" means species of the animal
6 kingdom not native to Washington and designated as dangerous to the
7 environment or wildlife of the state.

8 (26) "Game farm" means property on which wildlife is held or raised
9 for commercial purposes, trade, or gift. The term "game farm" does not
10 include publicly owned facilities.

11 (27) "Person of disability" means a permanently disabled person who
12 is not ambulatory without the assistance of a wheelchair, crutches, or
13 similar devices.

14 (28) "Fish" includes all species classified as game fish or food
15 fish by statute or rule, as well as all fin fish not currently
16 classified as food fish or game fish if such species exist in state
17 waters. The term "fish" includes all stages of development and the
18 bodily parts of fish species.

19 (29) "Raffle" means an activity in which tickets bearing an
20 individual number are sold for not more than twenty-five dollars each
21 and in which a permit or permits are awarded to hunt or for access to
22 hunt big game animals or wild turkeys on the basis of a drawing from
23 the tickets by the person or persons conducting the raffle.

24 (30) "Youth" means a person fifteen years old for fishing and under
25 sixteen years old for hunting.

26 (31) "Senior" means a person seventy years old or older.

27 (32) "License year" means the period of time for which a
28 recreational license is valid. The license year begins April 1st, and
29 ends March 31st.

30 (33) "Saltwater" means those marine waters seaward of river mouths.

31 (34) "Freshwater" means all waters not defined as saltwater
32 including, but not limited to, rivers upstream of the river mouth,
33 lakes, ponds, and reservoirs.

34 (35) "State waters" means all marine waters and fresh waters within
35 ordinary high water lines and within the territorial boundaries of the
36 state.

37 (36) "Offshore waters" means marine waters of the Pacific Ocean

1 outside the territorial boundaries of the state, including the marine
2 waters of other states and countries.

3 (37) "Concurrent waters of the Columbia river" means those waters
4 of the Columbia river that coincide with the Washington-Oregon state
5 boundary.

6 (38) "Resident" means:

7 (a) A person who has maintained a permanent place of abode within
8 the state for at least ninety days immediately preceding an application
9 for a license, has established by formal evidence an intent to continue
10 residing within the state, and who is not licensed to hunt or fish as
11 a resident in another state; and

12 (b) A person age eighteen or younger who does not qualify as a
13 resident under (a) of this subsection, but who has a parent that
14 qualifies as a resident under (a) of this subsection.

15 (39) "Nonresident" means a person who has not fulfilled the
16 qualifications of a resident.

17 (40) "Shellfish" means those species of marine and freshwater
18 invertebrates that have been classified and that shall not be taken
19 except as authorized by rule of the (~~commission~~) director. The term
20 "shellfish" includes all stages of development and the bodily parts of
21 shellfish species.

22 (41) "Commercial" means related to or connected with buying,
23 selling, or bartering.

24 (42) "To process" and its derivatives mean preparing or preserving
25 fish, wildlife, or shellfish.

26 (43) "Personal use" means for the private use of the individual
27 taking the fish or shellfish and not for sale or barter.

28 (44) "Angling gear" means a line attached to a rod and reel capable
29 of being held in hand while landing the fish or a hand-held line
30 operated without rod or reel.

31 (45) "Fishery" means the taking of one or more particular species
32 of fish or shellfish with particular gear in a particular geographical
33 area.

34 (46) "Limited-entry license" means a license subject to a license
35 limitation program established in chapter 77.70 RCW.

36 (47) "Seaweed" means marine aquatic plant species that are
37 dependent upon the marine aquatic or tidal environment, and exist in

1 either an attached or free floating form, and includes but is not
2 limited to marine aquatic plants in the classes Chlorophyta,
3 Phaeophyta, and Rhodophyta.

4 (48) "Trafficking" means offering, attempting to engage, or
5 engaging in sale, barter, or purchase of fish, shellfish, wildlife, or
6 deleterious exotic wildlife.

7 (49) "Invasive species" means a plant species or a nonnative animal
8 species that either:

9 (a) Causes or may cause displacement of, or otherwise threatens,
10 native species in their natural communities;

11 (b) Threatens or may threaten natural resources or their use in the
12 state;

13 (c) Causes or may cause economic damage to commercial or
14 recreational activities that are dependent upon state waters; or

15 (d) Threatens or harms human health.

16 (50) "Prohibited aquatic animal species" means an invasive species
17 of the animal kingdom that has been classified as a prohibited aquatic
18 animal species by the (~~commission~~) director.

19 (51) "Regulated aquatic animal species" means a potentially
20 invasive species of the animal kingdom that has been classified as a
21 regulated aquatic animal species by the (~~commission~~) director.

22 (52) "Unregulated aquatic animal species" means a nonnative animal
23 species that has been classified as an unregulated aquatic animal
24 species by the (~~commission~~) director.

25 (53) "Unlisted aquatic animal species" means a nonnative animal
26 species that has not been classified as a prohibited aquatic animal
27 species, a regulated aquatic animal species, or an unregulated aquatic
28 animal species by the (~~commission~~) director.

29 (54) "Aquatic plant species" means an emergent, submersed,
30 partially submersed, free-floating, or floating-leaving plant species
31 that grows in or near a body of water or wetland.

32 (55) "Retail-eligible species" means commercially harvested salmon,
33 crab, and sturgeon.

34 **Sec. 10.** RCW 77.08.022 and 2000 c 107 s 208 are each amended to
35 read as follows:

36 "Food fish" means those species of the classes Osteichthyes,
37 Agnatha, and Chondrichthyes that have been classified and that shall

1 not be fished for except as authorized by rule of the (~~commission~~)
2 director. The term "food fish" includes all stages of development and
3 the bodily parts of food fish species.

4 **Sec. 11.** RCW 77.12.010 and 2000 c 107 s 210 are each amended to
5 read as follows:

6 The commission or the director shall not adopt rules that
7 categorically prohibit fishing with bait or artificial lures in
8 streams, rivers, beaver ponds, and lakes except that the commission and
9 the director may adopt rules and regulations restricting fishing
10 methods upon a determination by the director that an individual body of
11 water or part thereof clearly requires a fishing method prohibition to
12 conserve or enhance the fisheries resource or to provide selected
13 fishing alternatives.

14 **Sec. 12.** RCW 77.12.020 and 2002 c 281 s 3 are each amended to read
15 as follows:

16 (1) The director shall investigate the habits and distribution of
17 the various species of wildlife native to or adaptable to the habitats
18 of the state. The commission shall determine whether a species should
19 be managed by the department and, if so, classify it under this
20 section.

21 (2) The commission may classify by rule wild animals as game
22 animals and game animals as fur-bearing animals.

23 (3) The commission may classify by rule wild birds as game birds or
24 predatory birds. All wild birds not otherwise classified are protected
25 wildlife.

26 (4) In addition to those species listed in RCW 77.08.020, the
27 commission may classify by rule as game fish other species of the class
28 Osteichthyes that are commonly found in fresh water except those
29 classified as food fish by the director.

30 (5) The director may recommend to the commission that a species of
31 wildlife should not be hunted or fished. The commission may designate
32 species of wildlife as protected.

33 (6) If the director determines that a species of wildlife is
34 seriously threatened with extinction in the state of Washington, the
35 director may request its designation as an endangered species. The
36 commission may designate an endangered species.

1 (7) If the director determines that a species of the animal
2 kingdom, not native to Washington, is dangerous to the environment or
3 wildlife of the state, the director may request its designation as
4 deleterious exotic wildlife. The commission may designate deleterious
5 exotic wildlife.

6 (8) (~~Upon recommendation by the director, the commission~~) The
7 director may classify nonnative aquatic animal species according to the
8 following categories:

9 (a) Prohibited aquatic animal species: These species are
10 considered by the (~~commission~~) director to have a high risk of
11 becoming an invasive species and may not be possessed, imported,
12 purchased, sold, propagated, transported, or released into state waters
13 except as provided in RCW 77.15.253;

14 (b) Regulated aquatic animal species: These species are considered
15 by the (~~commission~~) director to have some beneficial use along with
16 a moderate, but manageable risk of becoming an invasive species, and
17 may not be released into state waters, except as provided in RCW
18 77.15.253. The (~~commission~~) director shall classify the following
19 commercial aquaculture species as regulated aquatic animal species, and
20 allow their release into state waters pursuant to rule of the
21 (~~commission~~) director: Pacific oyster (*Crassostrea gigas*), kumamoto
22 oyster (*Crassostrea sikamea*), European flat oyster (*Ostrea edulis*),
23 eastern oyster (*Crassostrea virginica*), manila clam (*Tapes*
24 *philippinarum*), blue mussel (*Mytilus galloprovincialis*), and suminoe
25 oyster (*Crassostrea ariankensis*);

26 (c) Unregulated aquatic animal species: These species are
27 considered by the (~~commission~~) director as having some beneficial use
28 along with a low risk of becoming an invasive species, and are not
29 subject to regulation under this title;

30 (d) Unlisted aquatic animal species: These species are not
31 designated as a prohibited aquatic animal species, regulated aquatic
32 animal species, or unregulated aquatic animal species by the
33 (~~commission~~) director, and may not be released into state waters.
34 Upon request, the (~~commission~~) director may determine the appropriate
35 category for an unlisted aquatic animal species and classify the
36 species accordingly;

37 (e) This subsection (8) does not apply to the transportation or

1 release of nonnative aquatic animal species by ballast water or ballast
2 water discharge.

3 (9) (~~Upon recommendation by~~) The director(~~(, the commission)~~) may
4 develop a work plan to eradicate native aquatic species that threaten
5 human health. Priority shall be given to water bodies that the
6 department of health has classified as representing a threat to human
7 health based on the presence of a native aquatic species.

8 **Sec. 13.** RCW 77.12.045 and 2001 c 253 s 13 are each amended to
9 read as follows:

10 Consistent with federal law, the (~~commission's~~) department's
11 authority extends to all areas and waters within the territorial
12 boundaries of the state, to the offshore waters, and to the concurrent
13 waters of the Columbia river.

14 Consistent with federal law, the (~~commission's~~) department's
15 authority extends to fishing in offshore waters by residents of this
16 state.

17 The (~~commission~~) director may adopt rules consistent with the
18 regulations adopted by the United States department of commerce for the
19 offshore waters. The (~~commission~~) director may adopt rules
20 consistent with the recommendations or regulations of the Pacific
21 marine fisheries commission, Columbia river compact, the Pacific salmon
22 commission as provided in chapter 77.75 RCW, or the international
23 Pacific halibut commission.

24 **Sec. 14.** RCW 77.12.047 and 2001 c 253 s 14 are each amended to
25 read as follows:

26 (1) The commission may adopt, amend, or repeal rules as follows:

27 (a) Specifying the times when the taking of wildlife(~~(,)~~) or game
28 fish(~~(, or shellfish)~~) is lawful or unlawful.

29 (b) Specifying the areas and waters in which the taking and
30 possession of wildlife(~~(,)~~) or game fish(~~(, or shellfish)~~) is lawful or
31 unlawful.

32 (c) Specifying and defining the gear, appliances, or other
33 equipment and methods that may be used to take wildlife(~~(,)~~) or game
34 fish(~~(, or shellfish,)~~) and specifying the times, places, and manner in
35 which the equipment may be used or possessed.

1 (d) Regulating the importation, transportation, possession,
2 disposal, landing, and sale of wildlife((~~τ~~)) or game fish((~~τ~~,~~shellfish~~,
3 ~~or seaweed~~)) within the state, whether acquired within or without the
4 state.

5 (e) Regulating the prevention and suppression of diseases and pests
6 affecting wildlife((~~τ~~)) or game fish((~~τ~~,~~or shellfish~~)).

7 (f) Regulating the size, sex, species, and quantities of
8 wildlife((~~τ~~)) or game fish((~~τ~~,~~or shellfish~~)) that may be taken,
9 possessed, sold, or disposed of.

10 (g) Specifying the statistical and biological reports required from
11 fishers, dealers, boathouses, or processors of wildlife((~~τ~~)) or game
12 fish((~~τ~~,~~or shellfish~~)).

13 (h) (~~Classifying species of marine and freshwater life as food~~
14 ~~fish or shellfish.~~

15 (~~+~~~~i~~)) Classifying the species of wildlife((~~τ~~)) and game fish((~~τ~~,~~and~~
16 ~~shellfish~~)) that may be used for purposes other than human consumption.

17 (~~+~~~~j~~)) (~~i~~) Regulating the taking, sale, possession, and
18 distribution of wildlife, game fish, ((~~shellfish~~,~~τ~~)) or deleterious
19 exotic wildlife.

20 (~~+~~~~k~~)) (~~j~~) Establishing game reserves and closed areas where
21 hunting for wild animals or wild birds may be prohibited.

22 (~~+~~~~l~~)) (~~k~~) Regulating the harvesting of game fish((~~τ~~,~~shellfish~~,~~τ~~))
23 and wildlife in the federal exclusive economic zone by vessels or
24 individuals registered or licensed under the laws of this state.

25 (~~+~~~~m~~)) (~~l~~) Authorizing issuance of permits to release, plant, or
26 place game fish ((~~or shellfish~~)) in state waters.

27 (~~+~~~~n~~)) (~~m~~) Governing the possession of game fish((~~τ~~,~~shellfish~~,~~τ~~))
28 or wildlife so that the size, species, or sex can be determined
29 visually in the field or while being transported.

30 (~~+~~~~o~~)) (~~n~~) Other rules necessary to carry out this title and the
31 purposes and duties of the ((~~department~~)) commission.

32 (2) The director may adopt, amend, or repeal rules as follows:

33 (a) Specifying the times when the taking of food fish or shellfish
34 is lawful or unlawful.

35 (b) Specifying the areas and waters in which the taking and
36 possession of food fish or shellfish is lawful or unlawful.

37 (c) Specifying and defining the gear, appliances, or other

1 equipment and methods that may be used to take food fish or shellfish
2 and specifying the times, places, and manner in which the equipment may
3 be used or possessed.

4 (d) Regulating the importation, transportation, possession,
5 disposal, landing, and sale of food fish, shellfish, or seaweed within
6 the state, whether acquired within or without the state.

7 (e) Regulating the prevention and suppression of diseases and pests
8 affecting food fish or shellfish.

9 (f) Regulating the size, sex, species, and quantities of food fish
10 or shellfish that may be taken, possessed, sold, or disposed of.

11 (g) Specifying the statistical and biological reports required from
12 fishers, dealers, boathouses, or processors of food fish or shellfish.

13 (h) Classifying species of marine and freshwater life as food fish
14 or shellfish.

15 (i) Classifying the species of food fish and shellfish that may be
16 used for purposes other than human consumption.

17 (j) Regulating the taking, sale, possession, and distribution of
18 food fish or shellfish.

19 (k) Regulating the harvesting of food fish and shellfish in the
20 federal exclusive economic zone by vessels or individuals registered or
21 licensed under the laws of this state.

22 (l) Authorizing issuance of permits to release, plant, or place
23 food fish or shellfish in state waters.

24 (m) Governing the possession of food fish or shellfish so that the
25 size, species, or sex can be determined visually in the field or while
26 being transported.

27 (n) Other rules necessary to carry out this title and the purposes
28 and duties of the director.

29 (3) Subsection(~~(1)~~) (2)(a), (b), (c), (d), and (f) of this
30 section (~~(d)~~) does not apply to private tideland owners and lessees
31 and the immediate family members of the owners or lessees of state
32 tidelands, when they take or possess oysters, clams, cockles, borers,
33 or mussels, excluding razor clams, produced on their own private
34 tidelands or their leased state tidelands for personal use.

35 "Immediate family member" for the purposes of this section means a
36 spouse, brother, sister, grandparent, parent, child, or grandchild.

37 (~~(3)~~) (4) Except for subsections (1)(g) and (2)(g) of this

1 section, this section does not apply to private sector cultured aquatic
2 products as defined in RCW 15.85.020. Subsections (1)(g) and (2)(g) of
3 this section (~~((does))~~) apply to such products.

4 **Sec. 15.** RCW 77.12.152 and 1995 1st sp.s. c 2 s 14 are each
5 amended to read as follows:

6 The (~~((commission))~~) director may designate the boundaries of fishing
7 areas by driving piling or by establishing monuments or by description
8 of landmarks or section lines and directional headings.

9 **Sec. 16.** RCW 77.12.275 and 1995 1st sp.s. c 2 s 7 are each amended
10 to read as follows:

11 The (~~((commission))~~) director may negotiate agreements with the
12 United States department of defense to coordinate fishing in state
13 waters over which the department of defense has assumed control.

14 **Sec. 17.** RCW 77.12.285 and 2000 c 107 s 6 are each amended to read
15 as follows:

16 (1) The (~~((commission))~~) director may enter into agreements with and
17 receive funds from the United States for the construction, maintenance,
18 and operation of fish cultural stations, laboratories, and devices in
19 the Columbia River basin for improvement of feeding and spawning
20 conditions for fish, for the protection of migratory fish from
21 irrigation projects and for facilitating free migration of fish over
22 obstructions.

23 (2) The director and the department may acquire by gift, purchase,
24 lease, easement, or condemnation the use of lands where the
25 construction or improvement is to be carried on by the United States.

26 **Sec. 18.** RCW 77.12.320 and 2001 c 253 s 19 are each amended to
27 read as follows:

28 (1) The commission may make agreements with persons, political
29 subdivisions of this state, or the United States or its agencies or
30 instrumentalities, regarding fish, shellfish, and wildlife-oriented
31 recreation and the propagation, protection, conservation, and control
32 of game fish(~~(, shellfish,)~~) and wildlife. The director may make
33 agreements with persons, political subdivisions of this state, or the

1 United States or its agencies or instrumentalities, regarding the
2 propagation, protection, conservation, and control of food fish and
3 shellfish.

4 (2) The director may make written agreements with the owners or
5 lessees of real or personal property to provide for the use of the
6 property for fish, shellfish, and wildlife-oriented recreation. The
7 director may adopt rules governing the conduct of persons in or on the
8 real property.

9 (3) The director may accept compensation for fish, shellfish, and
10 wildlife losses or gifts or grants of personal property for use by the
11 department.

12 **Sec. 19.** RCW 77.12.325 and 2001 c 253 s 20 are each amended to
13 read as follows:

14 The commission may cooperate with the Oregon fish and wildlife
15 commission in the adoption of rules to ensure an annual yield of game
16 fish(~~(, shellfish,)~~) and wildlife on the Columbia river and to prevent
17 the taking of game fish(~~(, shellfish,)~~) and wildlife at places or times
18 that might endanger fish, shellfish, and wildlife. The director may
19 cooperate with the Oregon fish and wildlife commission in the adoption
20 of rules to ensure an annual yield of food fish and shellfish on the
21 Columbia river and to prevent the taking of food fish and shellfish at
22 places or times that might endanger fish, shellfish, and wildlife.

23 **Sec. 20.** RCW 77.12.330 and 1980 c 78 s 53 are each amended to read
24 as follows:

25 The commission, with regard to game fish, and the director, with
26 regard to food fish and shellfish, may establish by rule exclusive
27 fishing waters for minors within specified ages.

28 **Sec. 21.** RCW 77.12.420 and 1987 c 506 s 46 are each amended to
29 read as follows:

30 The director may spend moneys to improve natural growing conditions
31 for fish by constructing fishways, installing screens, and removing
32 obstructions to migratory fish. The eradication of undesirable fish
33 shall be authorized by the (~~commission~~) director. The director may
34 enter into cooperative agreements with state, county, municipal, and
35 federal agencies, and with private individuals for these purposes.

1 August 31, 2002, and made available to any person interested in
2 derelict fishing gear removal.

3 (3) Derelict fishing gear removal conducted in accordance with the
4 guidelines prepared in subsection (2) of this section is not subject to
5 permitting under RCW 77.55.021.

6 **Sec. 25.** RCW 77.12.870 and 2002 c 20 s 3 are each amended to read
7 as follows:

8 (1) The (~~department~~) director, in consultation with the Northwest
9 straits commission, the department of natural resources, and other
10 interested parties, must create and maintain a data base of known
11 derelict fishing gear, including the type of gear and its location.

12 (2) A person who loses or abandons commercial fishing gear within
13 the waters of the state is encouraged to report the location of the
14 loss and the type of gear lost to the department within forty-eight
15 hours of the loss.

16 (3) The (~~department~~) director, in consultation with fishing
17 industry groups and tribal comanagers, must evaluate methods to reduce
18 future losses of fishing gear and report the results of this evaluation
19 to the appropriate legislative committees by January 1, 2003.

20 **Sec. 26.** RCW 77.12.875 and 2002 c 281 s 5 are each amended to read
21 as follows:

22 (1) The (~~commission~~) director may designate by rule state waters
23 as infested if the director determines that these waters contain a
24 prohibited aquatic animal species.

25 (2) The (~~commission~~) director, in consultation with the
26 department of ecology, may designate state waters as infested if it is
27 determined that these waters contain an invasive aquatic plant species.

28 (3) The (~~department~~) director shall work with the aquatic
29 nuisance species committee and its member agencies to create
30 educational materials informing the public of state waters that are
31 infested with invasive species, and advise them of applicable rules and
32 practices designed to reduce the spread of the invasive species
33 infesting the waters.

34 **Sec. 27.** RCW 77.12.878 and 2002 c 281 s 6 are each amended to read
35 as follows:

1 (1) The director shall create a rapid response plan in cooperation
2 with the aquatic nuisance species committee and its member agencies
3 that describes actions to be taken when a prohibited aquatic animal
4 species is found to be infesting a water body. These actions include
5 eradication or control programs where feasible and containment of
6 infestation where practical through notification, public education, and
7 the enforcement of regulatory programs.

8 (2) The (~~commission~~) director may adopt rules to implement the
9 rapid response plan.

10 (3) The director, the department of ecology, and the Washington
11 state parks and recreation commission may post signs at water bodies
12 that are infested with aquatic animal species that are classified as
13 prohibited aquatic animal species under RCW 77.12.020 or with invasive
14 species of the plant kingdom. The signs should identify the prohibited
15 plant and animal species present and warn users of the water body of
16 the hazards and penalties for possessing and transporting these
17 species. Educational signs may be placed at uninfested sites.

18 **Sec. 28.** RCW 77.12.879 and 2005 c 464 s 3 are each amended to read
19 as follows:

20 (1) The aquatic invasive species prevention account is created in
21 the state treasury. Moneys directed to the account from RCW 88.02.050
22 must be deposited in the account. Expenditures from the account may
23 only be used as provided in this section. Moneys in the account may be
24 spent only after appropriation.

25 (2) Funds in the aquatic invasive species prevention account may be
26 appropriated to the department to develop an aquatic invasive species
27 prevention program for recreational watercraft. Funds must be expended
28 as follows:

29 (a) To inspect watercraft, watercraft trailers, and outboard motors
30 at selected boat launching sites;

31 (b) To educate general law enforcement officers on how to enforce
32 state laws relating to preventing the spread of aquatic invasive
33 species;

34 (c) To evaluate and survey the risk posed by marine recreational
35 watercraft in spreading aquatic invasive species into Washington state
36 waters;

1 (d) To evaluate the risk posed by float planes in spreading aquatic
2 invasive species into Washington state waters; and

3 (e) To implement an aquatic invasive species early detection and
4 rapid response plan.

5 (3) The department shall provide training to Washington state
6 patrol employees working at port of entry weigh stations on how to
7 inspect recreational watercraft for the presence of zebra mussels and
8 other aquatic invasive species. The department shall also
9 cooperatively work with the Washington state patrol to set up random
10 check stations to inspect watercraft at areas of high boating activity.

11 (4) The ((department)) director shall submit a biennial report to
12 the appropriate legislative committees describing the actions taken to
13 implement this section along with suggestions on how to better fulfill
14 the intent of chapter 464, Laws of 2005. The first report is due
15 December 1, 2007.

16 **Sec. 29.** RCW 77.15.096 and 2002 c 128 s 5 are each amended to read
17 as follows:

18 Fish and wildlife officers may inspect without warrant at
19 reasonable times and in a reasonable manner the premises, containers,
20 fishing equipment, fish, seaweed, shellfish, and wildlife, and records
21 required by the department of any commercial fisher or wholesale dealer
22 or fish buyer. Fish and wildlife officers may similarly inspect
23 without warrant the premises, containers, fishing equipment, fish,
24 shellfish, and wildlife, and records required by the department of any
25 shipping agent or other person placing or attempting to place fish,
26 shellfish, or wildlife into interstate commerce, any cold storage plant
27 that the department has probable cause to believe contains fish,
28 shellfish, or wildlife, or of any taxidermist or fur buyer. Fish and
29 wildlife officers may inspect without warrant the records required by
30 the department of any retail outlet selling fish, shellfish, or
31 wildlife, and, if the officers have probable cause to believe a
32 violation of this title or rules of the commission or the director has
33 occurred, they may inspect without warrant the premises, containers,
34 and fish, shellfish, and wildlife of any retail outlet selling fish,
35 shellfish, or wildlife. Authority granted under this section does not
36 extend to quarters in a boat, building, or other property used
37 exclusively as a private domicile, does not extend to transitory

1 residences in which a person has a reasonable expectation of privacy,
2 and does not allow search and seizure without a warrant if the thing or
3 place is protected from search without warrant within the meaning of
4 Article I, section 7 of the state Constitution.

5 **Sec. 30.** RCW 77.15.120 and 2000 c 107 s 236 are each amended to
6 read as follows:

7 (1) A person is guilty of unlawful taking of endangered fish or
8 wildlife in the second degree if the person hunts, fishes, possesses,
9 maliciously harasses or kills fish or wildlife, or maliciously destroys
10 the nests or eggs of fish or wildlife and the fish or wildlife is
11 designated by the commission or the director as endangered, and the
12 taking has not been authorized by rule of the commission or of the
13 director.

14 (2) A person is guilty of unlawful taking of endangered fish or
15 wildlife in the first degree if the person has been:

16 (a) Convicted under subsection (1) of this section or convicted of
17 any crime under this title involving the killing, possessing,
18 harassing, or harming of endangered fish or wildlife; and

19 (b) Within five years of the date of the prior conviction the
20 person commits the act described by subsection (1) of this section.

21 (3)(a) Unlawful taking of endangered fish or wildlife in the second
22 degree is a gross misdemeanor.

23 (b) Unlawful taking of endangered fish or wildlife in the first
24 degree is a class C felony. The department shall revoke any licenses
25 or tags used in connection with the crime and order the person's
26 privileges to hunt, fish, trap, or obtain licenses under this title to
27 be suspended for two years.

28 **Sec. 31.** RCW 77.15.130 and 1998 c 190 s 14 are each amended to
29 read as follows:

30 (1) A person is guilty of unlawful taking of protected fish or
31 wildlife if:

32 (a) The person hunts, fishes, possesses, or maliciously kills
33 protected fish or wildlife, or the person possesses or maliciously
34 destroys the eggs or nests of protected fish or wildlife, and the
35 taking has not been authorized by rule of the commission or of the
36 director; or

1 (b) The person violates any rule of the commission or of the
2 director regarding the taking, harming, harassment, possession, or
3 transport of protected fish or wildlife.

4 (2) Unlawful taking of protected fish or wildlife is a misdemeanor.

5 **Sec. 32.** RCW 77.15.160 and 2000 c 107 s 237 are each amended to
6 read as follows:

7 A person is guilty of an infraction, which shall be cited and
8 punished as provided under chapter 7.84 RCW, if the person:

9 (1) Fails to immediately record a catch of fish or shellfish on a
10 catch record card required by RCW 77.32.430, or required by rule of the
11 commission or of the director under this title; or

12 (2) Fishes for personal use using barbed hooks in violation of any
13 rule; or

14 (3) Violates any other rule of the commission or director that is
15 designated by rule as an infraction.

16 **Sec. 33.** RCW 77.15.250 and 2001 c 253 s 32 are each amended to
17 read as follows:

18 (1)(a) A person is guilty of unlawfully releasing, planting, or
19 placing fish, shellfish, or wildlife if the person knowingly releases,
20 plants, or places live fish, shellfish, wildlife, or aquatic plants
21 within the state, and the fish, shellfish, or wildlife have not been
22 classified as deleterious wildlife. This subsection does not apply to
23 a release of game fish into private waters for which a game fish
24 stocking permit has been obtained, or the planting of food fish or
25 shellfish by permit of the (~~commission~~) director.

26 (b) A violation of this subsection is a gross misdemeanor. In
27 addition, the department shall order the person to pay all costs the
28 department incurred in capturing, killing, or controlling the fish,
29 shellfish, aquatic plants, or wildlife released or its progeny. This
30 does not affect the existing authority of the department to bring a
31 separate civil action to recover costs of capturing, killing,
32 controlling the fish, shellfish, aquatic plants, or wildlife released
33 or their progeny, or restoration of habitat necessitated by the
34 unlawful release.

35 (2)(a) A person is guilty of unlawful release of deleterious exotic
36 wildlife if the person knowingly releases, plants, or places live fish,

1 shellfish, or wildlife within the state and such fish, shellfish, or
2 wildlife has been classified as deleterious exotic wildlife by rule of
3 the commission.

4 (b) A violation of this subsection is a class C felony. In
5 addition, the department shall also order the person to pay all costs
6 the department incurred in capturing, killing, or controlling the fish,
7 shellfish, or wildlife released or its progeny. This does not affect
8 the existing authority of the department to bring a separate civil
9 action to recover costs of capturing, killing, controlling the fish,
10 shellfish, or wildlife released or their progeny, or restoration of
11 habitat necessitated by the unlawful release.

12 **Sec. 34.** RCW 77.15.253 and 2002 c 281 s 4 are each amended to read
13 as follows:

14 (1) A person is guilty of unlawful use of a prohibited aquatic
15 animal species if he or she possesses, imports, purchases, sells,
16 propagates, transports, or releases a prohibited aquatic animal species
17 within the state, except as provided in this section.

18 (2) Unless otherwise prohibited by law, a person may:

19 (a) Transport prohibited aquatic animal species to the department,
20 or to another destination designated by the director, in a manner
21 designated by the director, for purposes of identifying a species or
22 reporting the presence of a species;

23 (b) Possess a prohibited aquatic animal species if he or she is in
24 the process of removing it from watercraft or equipment in a manner
25 specified by the department;

26 (c) Release a prohibited aquatic animal species if the species was
27 caught while fishing and it is being immediately returned to the water
28 from which it came; or

29 (d) Possess, transport, or release a prohibited aquatic animal
30 species as the (~~commission~~) director may otherwise prescribe.

31 (3) Unlawful use of a prohibited aquatic animal species is a gross
32 misdemeanor. A subsequent violation of subsection (1) of this section
33 within five years is a class C felony.

34 (4) A person is guilty of unlawful release of a regulated aquatic
35 animal species if he or she releases a regulated aquatic animal species
36 into state waters, unless allowed by the (~~commission~~) director.

1 (5) Unlawful release of a regulated aquatic animal species is a
2 gross misdemeanor.

3 (6) A person is guilty of unlawful release of an unlisted aquatic
4 animal species if he or she releases an unlisted aquatic animal species
5 into state waters without requesting a (~~commission~~) director
6 designation under RCW 77.12.020.

7 (7) Unlawful release of an unlisted aquatic animal species is a
8 gross misdemeanor.

9 (8) This section does not apply to the transportation or release of
10 organisms in ballast water.

11 **Sec. 35.** RCW 77.15.290 and 2002 c 281 s 7 are each amended to read
12 as follows:

13 (1) A person is guilty of unlawful transportation of fish or
14 wildlife in the second degree if the person:

15 (a) Knowingly imports, moves within the state, or exports fish,
16 shellfish, or wildlife in violation of any rule of the commission or
17 the director governing the transportation or movement of fish,
18 shellfish, or wildlife and the transportation does not involve big
19 game, endangered fish or wildlife, deleterious exotic wildlife, or
20 fish, shellfish, or wildlife having a value greater than two hundred
21 fifty dollars; or

22 (b) Possesses but fails to affix or notch a big game transport tag
23 as required by rule of the commission or director.

24 (2) A person is guilty of unlawful transportation of fish or
25 wildlife in the first degree if the person:

26 (a) Knowingly imports, moves within the state, or exports fish,
27 shellfish, or wildlife in violation of any rule of the commission or
28 the director governing the transportation or movement of fish,
29 shellfish, or wildlife and the transportation involves big game,
30 endangered fish or wildlife, deleterious exotic wildlife, or fish,
31 shellfish, or wildlife with a value of two hundred fifty dollars or
32 more; or

33 (b) Knowingly transports shellfish, shellstock, or equipment used
34 in commercial culturing, taking, handling, or processing shellfish
35 without a permit required by authority of this title.

36 (3)(a) Unlawful transportation of fish or wildlife in the second
37 degree is a misdemeanor.

1 (b) Unlawful transportation of fish or wildlife in the first degree
2 is a gross misdemeanor.

3 (4) A person is guilty of unlawful transport of aquatic plants if
4 the person transports aquatic plants on any state or public road,
5 including forest roads, except as provided in this section.

6 (5) Unless otherwise prohibited by law, a person may transport
7 aquatic plants:

8 (a) To the department, or to another destination designated by the
9 director, in a manner designated by the (~~department~~) director, for
10 purposes of identifying a species or reporting the presence of a
11 species;

12 (b) When legally obtained for aquarium use, wetland or lakeshore
13 restoration, or ornamental purposes;

14 (c) When transporting a commercial aquatic plant harvester to a
15 suitable location for purposes of removing aquatic plants;

16 (d) In a manner that prevents their unintentional dispersal, to a
17 suitable location for disposal, research, or educational purposes; or

18 (e) As the (~~commission~~) director may otherwise prescribe.

19 (6) Unlawful transport of aquatic plants is a misdemeanor.

20 **Sec. 36.** RCW 77.15.530 and 2000 c 107 s 249 are each amended to
21 read as follows:

22 (1) A person who holds a fishery license required by chapter 77.65
23 RCW, or who holds an operator's license and is designated as an
24 alternate operator on a fishery license required by chapter 77.65 RCW,
25 is guilty of unlawful use of a nondesignated vessel if the person
26 takes, fishes for, or delivers from that fishery using a vessel not
27 designated on the person's license, when vessel designation is required
28 by chapter 77.65 RCW.

29 (2) Unlawful use of a nondesignated vessel is a gross misdemeanor.

30 (3) A nondesignated vessel may be used, subject to appropriate
31 notification to the department and in accordance with rules established
32 by the (~~commission~~) director, when a designated vessel is inoperative
33 because of accidental damage or mechanical breakdown.

34 (4) If the person commits the act described by subsection (1) of
35 this section and the vessel designated on the person's fishery license
36 was used by any person in the fishery on the same day, then the
37 violation for using a nondesignated vessel is a class C felony. Upon

1 conviction the ((department)) director shall order revocation and
2 suspension of all commercial fishing privileges under chapter 77.65 RCW
3 for a period of one year.

4 **Sec. 37.** RCW 77.15.554 and 2003 c 386 s 4 are each amended to read
5 as follows:

6 (1) The license suspension review committee is created. The
7 license suspension review committee may only hear appeals from
8 commercial fishers who have had a license revoked or suspended pursuant
9 to RCW 77.15.552.

10 (2)(a) The license suspension review committee is composed of five
11 voting members and up to four alternates.

12 (b) Two of the members must be appointed by the director and may be
13 department employees.

14 (c) Three members, and up to four alternates, must be peer-group
15 members, who are individuals owning a commercial fishing license issued
16 by the department. If a peer-group member appears before the license
17 suspension review committee because of a qualifying commercial fishing
18 violation, the member must recuse himself or herself from the
19 proceedings relating to that violation. No two voting peer-group
20 members may reside in the same county. All peer-group members must be
21 appointed by the ((commission)) director, who may accept
22 recommendations from professional organizations that represent
23 commercial fishing interests or from the legislative authority of any
24 Washington county.

25 (d) All license suspension review committee members serve a two-
26 year renewable term.

27 (e) The ((commission)) director may develop minimum member
28 standards for service on the license suspension review committee, and
29 standards for terminating a member before the expiration of his or her
30 term.

31 (3) The license suspension review committee must convene and
32 deliver an opinion on a license renewal suspension within three months
33 of appeal or of referral from the department. The director shall
34 consider the committee's opinion and make a decision and may issue, not
35 issue, or modify the license suspension.

36 (4) The license suspension review committee shall collect the
37 information and hear the testimony that it feels necessary to deliver

1 an opinion on the proper length, if any, of a suspension of a
2 commercial license. The opinion may be based on extenuating
3 circumstances presented by the individual convicted of the qualifying
4 commercial fishing violation or considerations of the type and
5 magnitude of violations that have been committed by the individual.
6 The maximum length of any suspension may not exceed one year.

7 (5) All opinions of the license suspension review committee must be
8 by a majority vote of all voting members. Alternate committee members
9 may only vote when one of the voting members is unavailable, has been
10 recused, or has decided not to vote on the case before the committee.
11 Nonvoting alternates may be present and may participate at all license
12 suspension review committee meetings.

13 (6) Members of the license suspension review committee serve as
14 volunteers, and are not eligible for compensation other than travel
15 expenses pursuant to RCW 43.03.050 and 43.03.060.

16 (7) Staff of the license suspension review committee must be
17 provided by the department.

18 **Sec. 38.** RCW 77.15.590 and 1998 c 190 s 51 are each amended to
19 read as follows:

20 (1) A person is guilty of unlawful use of a commercial fishing
21 vessel, except as may be authorized by rule of the ((~~commission~~))
22 director, for recreational or charter fishing if the person uses,
23 operates, or controls a vessel on the same day for both:

- 24 (a) Charter or recreational fishing; and
25 (b) Commercial fishing or shellfish harvesting.

26 (2) Unlawful use of a commercial fishing vessel for recreational or
27 charter fishing is a gross misdemeanor.

28 **Sec. 39.** RCW 77.32.025 and 1998 c 191 s 9 are each amended to read
29 as follows:

30 Notwithstanding RCW 77.32.010, the commission with regard to game
31 fish, and the director with regard to food fish and shellfish, may
32 adopt rules designating times and places for the purposes of family
33 fishing days when licenses and catch record cards are not required to
34 fish or to harvest shellfish.

1 **Sec. 40.** RCW 77.32.070 and 2005 c 418 s 1 are each amended to read
2 as follows:

3 (1) Applicants for a license, permit, tag, or stamp shall furnish
4 the information required by the director. However, the director may
5 not require the purchaser of a razor clam license under RCW 77.32.520
6 to provide any personal information except for proof of residency. The
7 commission may adopt rules requiring licensees or permittees to keep
8 records and make reports concerning the taking of or effort to harvest
9 game fish((~~, shellfish,~~)) and wildlife. The director may adopt rules
10 requiring licensees or permittees to keep records and make reports
11 concerning the taking of or effort to harvest food fish and shellfish.
12 The reporting requirement may be waived where, for any reason, the
13 department is not able to receive the report. The department must
14 provide reasonable options for a licensee to submit information to a
15 live operator prior to the reporting deadline.

16 (2) The commission may, by rule, set an administrative penalty for
17 failure to comply with rules requiring the reporting of taking or
18 effort to harvest wildlife. The commission may also adopt rules
19 requiring hunters who have not reported for the previous license year
20 to complete a report and pay the assessed administrative penalty before
21 a new hunting license is issued.

22 (a) The total administrative penalty per hunter set by the
23 commission must not exceed ten dollars.

24 (b) By December 31st of each year, the department shall report the
25 rate of hunter compliance with the harvest reporting requirement, the
26 administrative penalty imposed for failing to report, and the amount of
27 administrative penalties collected during that year to the appropriate
28 fiscal and policy committees of the senate and house of
29 representatives.

30 **Sec. 41.** RCW 77.32.430 and 2005 c 192 s 2 are each amended to read
31 as follows:

32 (1) Catch record card information is necessary for proper
33 management of the state's food fish and game fish species and shellfish
34 resources. Catch record card administration shall be under rules
35 adopted by the commission for game fish, and by the director for food
36 fish and shellfish. There is no charge for an initial catch record

1 card. Each subsequent or duplicate catch record card costs ten
2 dollars.

3 (2) A license to take and possess Dungeness crab is only valid in
4 Puget Sound waters east of the Bonilla-Tatoosh line if the fisher has
5 in possession a valid catch record card officially endorsed for
6 Dungeness crab. The endorsement shall cost no more than three dollars,
7 including any or all fees authorized under RCW 77.32.050, when
8 purchased for a personal use saltwater, combination, or shellfish and
9 seaweed license. The endorsement shall cost no more than one dollar,
10 including any or all fees authorized under RCW 77.32.050, when
11 purchased for a temporary combination fishing license authorized under
12 RCW 77.32.470(3)(a).

13 (3) Catch record cards issued with affixed temporary short-term
14 charter stamp licenses are not subject to the ten-dollar charge nor to
15 the Dungeness crab endorsement fee provided for in this section.
16 Charter boat or guide operators issuing temporary short-term charter
17 stamp licenses shall affix the stamp to each catch record card issued
18 before fishing commences. Catch record cards issued with a temporary
19 short-term charter stamp are valid for one day.

20 (4) The (~~department~~) director shall include provisions for
21 recording marked and unmarked salmon in catch record cards issued after
22 March 31, 2004.

23 (5) The funds received from the sale of catch record cards and the
24 Dungeness crab endorsement must be deposited into the state wildlife
25 (~~fund~~) account. The funds received from the Dungeness crab
26 endorsement may be used only for the sampling, monitoring, and
27 management of catch associated with the Dungeness crab recreational
28 fisheries. Moneys allocated under this section shall supplement and
29 not supplant other federal, state, and local funds used for Dungeness
30 crab recreational fisheries management.

31 **Sec. 42.** RCW 77.32.500 and 1998 c 191 s 41 are each amended to
32 read as follows:

33 In order to simplify fishing license requirements in transition
34 areas between saltwater and freshwater, the commission may adopt rules
35 designating specific waters where either a freshwater or a saltwater
36 license is valid for game fish, and the director may adopt rules

1 designating specific waters where either a freshwater or a saltwater
2 license is valid for food fish or shellfish.

3 **Sec. 43.** RCW 77.50.010 and 2002 c 311 s 2 are each amended to read
4 as follows:

5 (1) The (~~commission~~) director may authorize commercial fishing
6 for sockeye salmon within the waters described in subsection (2) of
7 this section only during the period June 10th to July 25th and for
8 other salmon only from the second Monday of September through November
9 30th, except during the hours between 4:00 p.m. of Friday and 4:00 p.m.
10 of the following Sunday.

11 (2) All waters east and south of a line commencing at a concrete
12 monument on Angeles Point in Clallam county near the mouth of the Elwha
13 River on which is inscribed "Angeles Point Monument" (latitude 48° 9'
14 3" north, longitude 123° 33' 01" west of Greenwich Meridian); thence
15 running east on a line 81° 30' true across the flashlight and bell buoy
16 off Partridge Point and thence continued to longitude 122° 40' west;
17 thence north to the southerly shore of Sinclair Island; thence along
18 the southerly shore of the island to the most easterly point of the
19 island; thence 46° true to Carter Point, the most southerly point of
20 Lummi Island; thence northwesterly along the westerly shore line of
21 Lummi Island to where the shore line intersects line of longitude 122°
22 40' west; thence north to the mainland, including: The southerly
23 portion of Hale Passage, Bellingham Bay, Padilla Bay, Fidalgo Bay,
24 Guemes Channel, Skagit Bay, Similk Bay, Saratoga Passage, Holmes
25 Harbor, Possession Sound, Admiralty Inlet, Hood Canal, Puget Sound, and
26 their inlets, passages, waters, waterways, and tributaries.

27 (3) The (~~commission~~) director may authorize commercial fishing
28 for salmon with gill net, purse seine, and other lawful gear prior to
29 the second Monday in September within the waters of Hale Passage,
30 Bellingham Bay, Samish Bay, Padilla Bay, Fidalgo Bay, Guemes Channel,
31 Skagit Bay, and Similk Bay, to wit: Those waters northerly and
32 easterly of a line commencing at Stanwood, thence along the south shore
33 of Skagit Bay to Rocky Point on Camano Island; thence northerly to
34 Polnell Point on Whidbey Island.

35 (4) Whenever the (~~commission~~) director determines that a stock or
36 run of salmon cannot be harvested in the usual manner, and that the
37 stock or run of salmon may be in danger of being wasted and surplus to

1 natural or artificial spawning requirements, the (~~commission~~)
2 director may authorize units of gill net and purse seine gear in any
3 number or equivalents, by time and area, to fully utilize the
4 harvestable portions of these salmon runs for the economic well being
5 of the citizens of this state. Gill net and purse seine gear other
6 than emergency and test gear authorized by the director shall not be
7 used in Lake Washington.

8 (5) The (~~commission~~) director may authorize commercial fishing
9 for pink salmon in each odd-numbered year from August 1st through
10 September 1st in the waters lying inside of a line commencing at the
11 most easterly point of Dungeness Spit and thence projected to Point
12 Partridge on Whidbey Island and a line commencing at Olele Point and
13 thence projected easterly to Bush Point on Whidbey Island.

14 **Sec. 44.** RCW 77.50.020 and 1998 c 190 s 76 are each amended to
15 read as follows:

16 (1) The (~~commission~~) director may authorize commercial fishing
17 for coho salmon in the Pacific Ocean and the Straits of Juan de Fuca
18 only from June 16th through October 31st.

19 (2) The (~~commission~~) director may authorize commercial fishing
20 for chinook salmon in the Pacific Ocean and the Straits of Juan de Fuca
21 only from March 15th through October 31st.

22 **Sec. 45.** RCW 77.50.040 and 1998 c 190 s 78 are each amended to
23 read as follows:

24 (1) The (~~commission~~) director shall adopt rules defining
25 geographical boundaries of the following Columbia river tributaries and
26 sloughs:

- 27 (a) Washougal river;
- 28 (b) Camas slough;
- 29 (c) Lewis river;
- 30 (d) Kalama river;
- 31 (e) Cowlitz river;
- 32 (f) Elokomin river;
- 33 (g) Elokomin sloughs;
- 34 (h) Skamokawa sloughs;
- 35 (i) Grays river;
- 36 (j) Deep river;

1 (k) Grays bay.

2 (2) The (~~commission~~) director may authorize commercial net
3 fishing for salmon in the tributaries and sloughs from September 1st to
4 November 30th only, if the time, areas, and level of effort are
5 regulated in order to maximize the recreational fishing opportunity
6 while minimizing excess returns of fish to hatcheries. The
7 (~~commission~~) director shall not authorize commercial net fishing if
8 a significant catch of steelhead would occur.

9 **Sec. 46.** RCW 77.50.050 and 1998 c 190 s 79 are each amended to
10 read as follows:

11 The (~~commission~~) director shall not authorize use of reef net
12 fishing gear except in the reef net areas described in this section.

13 (1) Point Roberts reef net fishing area includes those waters
14 within 250 feet on each side of a line projected 129° true from a point
15 at longitude 123° 01' 15" W. latitude 48° 58' 38" N. to a point one
16 mile distant, as such description is shown upon the United States Coast
17 and Geodetic Survey map numbered 6300, published September, 1941, in
18 Washington, D.C., eleventh edition.

19 (2) Cherry Point reef net fishing area includes those waters inland
20 and inside the 10-fathom line between lines projected 205° true from
21 points on the mainland at longitude 122° 44' 54" latitude 48° 51' 48"
22 and longitude 122° 44' 18" latitude 48° 51' 33", (~~(a-[as])~~) as such
23 descriptions are shown upon the United States Coast and Geodetic Survey
24 map numbered 6380, published March, 1947, in Washington, D.C., eighth
25 edition.

26 (3) Lummi Island reef net fishing area includes those waters inland
27 and inside a line projected from Village Point 208° true to a point 900
28 yards distant, thence 129° true to the point of intersection with a
29 line projected 259° true from the shore of Lummi Island 122° 40' 42"
30 latitude 48° 41' 32", as such descriptions are shown upon the United
31 States Coast and Geodetic Survey map numbered 6380, published March,
32 1947, in Washington, D.C., eighth edition, revised 11-25-57, save and
33 except that there shall be excluded therefrom all waters lying inside
34 of a line projected 259° true from a point at 122° 40' 42" latitude 48°
35 41' 32" to a point 300 yards distant from high tide, thence in a
36 northerly direction to the United States Coast and Geodetic Survey
37 reference mark number 2, 1941-1950, located on that point on Lummi

1 Island known as Lovers Point, as such descriptions are shown upon the
2 United States Coast and Geodetic Survey map number 6380 as aforesaid.
3 The term "Village Point" as used herein shall be construed to mean a
4 point of location on Village Point, Lummi Island, at the mean high tide
5 line on a true bearing of $43^{\circ} 53'$ a distance of 457 feet to the center
6 of the chimney of a wood frame house on the east side of the county
7 road. Said chimney and house being described as Village Point Chimney
8 on page 612 of the United States Coast and Geodetic Survey list of
9 geographic positions No. G-5455, Rosario Strait.

10 (4) Sinclair Island reef net fishing area includes those waters
11 inland and inside a line projected from the northern point of Sinclair
12 Island to Boulder reef, thence 200° true to the northwesterly point of
13 Sinclair Island, as such descriptions are shown upon the United States
14 Coast and Geodetic Survey map numbered 6380, published March, 1947, in
15 Washington, D.C., eighth edition.

16 (5) Flat Point reef net fishing area includes those waters within
17 a radius of 175 feet of a point off Lopez Island located at longitude
18 $122^{\circ} 55' 24''$ latitude $48^{\circ} 32' 33''$, as such description is shown upon
19 the United States Coast and Geodetic Survey map numbered 6380,
20 published March, 1947, in Washington, D.C., eighth edition.

21 (6) Lopez Island reef net fishing area includes those waters within
22 400 yards of shore between lines projected true west from points on the
23 shore of Lopez Island at longitude $122^{\circ} 55' 04''$ latitude $48^{\circ} 31' 59''$
24 and longitude $122^{\circ} 55' 54''$ latitude $48^{\circ} 30' 55''$, as such descriptions
25 are shown upon the United States Coast and Geodetic Survey map numbered
26 6380, published March, 1947, in Washington, D.C., eighth edition.

27 (7) Iceberg Point reef net fishing area includes those waters
28 inland and inside a line projected from Davis Point on Lopez Island to
29 the west point of Long Island, thence to the southern point of Hall
30 Island, thence to the eastern point at the entrance to Jones Bay, and
31 thence to the southern point at the entrance to Mackaye Harbor on Lopez
32 Island; and those waters inland and inside a line projected 320° from
33 Iceberg Point light on Lopez Island, a distance of 400 feet, thence
34 easterly to the point on Lopez Island at longitude $122^{\circ} 53' 00''$
35 latitude $48^{\circ} 25' 39''$, as such descriptions are shown upon the United
36 States Coast and Geodetic Survey map numbered 6380, published March,
37 1947, in Washington, D.C., eighth edition.

1 (8) Aleck Bay reef net fishing area includes those waters inland
2 and inside a line projected from the southwestern point at the entrance
3 to Aleck Bay on Lopez Island at longitude 122° 51' 11" latitude 48° 25'
4 14" southeasterly 800 yards to the submerged rock shown on U.S.G.S. map
5 number 6380, thence northerly to the cove on Lopez Island at longitude
6 122° 50' 49" latitude 48° 25' 42", as such descriptions are shown upon
7 the United States Coast and Geodetic Survey map numbered 6380,
8 published March, 1947, in Washington, D.C., eighth edition.

9 (9) Shaw Island reef net fishing area number 1 includes those
10 waters within 300 yards of shore between lines projected true south
11 from points on Shaw Island at longitude 122° 56' 14" latitude 48° 33'
12 28" and longitude 122° 57' 29" latitude 48° 32' 58", as such
13 descriptions are shown upon the United States Coast and Geodetic Survey
14 map numbered 6380, published March, 1947, in Washington, D.C., eighth
15 edition.

16 (10) Shaw Island reef net fishing area number 2 includes those
17 waters inland and inside a line projected from Point George on Shaw
18 Island to the westerly point of Neck Point on Shaw Island, as such
19 description is shown upon the United States Coast and Geodetic Survey
20 map numbered 6380, published March, 1947, in Washington, D.C., eighth
21 edition.

22 (11) Stuart Island reef net fishing area number 1 includes those
23 waters within 600 feet of the shore of Stuart Island between lines
24 projected true east from points at longitude 123° 10' 47" latitude 48°
25 39' 47" and longitude 123° 10' 47" latitude 48° 39' 33", as such
26 descriptions are shown upon the United States Coast and Geodetic Survey
27 map numbered 6380, published March, 1947, in Washington, D.C., eighth
28 edition.

29 (12) Stuart Island reef net fishing area number 2 includes those
30 waters within 250 feet of Gossip Island, also known as Happy Island, as
31 such description is shown upon the United States Coast and Geodetic
32 Survey map numbered 6380, published March, 1947, in Washington, D.C.,
33 eighth edition.

34 (13) Johns Island reef net fishing area includes those waters
35 inland and inside a line projected from the eastern point of Johns
36 Island to the northwestern point of Little Cactus Island, thence
37 northwesterly to a point on Johns Island at longitude 123° 09' 24"

1 latitude 48° 39' 59", as such descriptions are shown upon the United
2 States Coast and Geodetic Survey map numbered 6380, published March,
3 1947, in Washington, D.C., eighth edition.

4 (14) Battleship Island reef net fishing area includes those waters
5 lying within 350 feet of Battleship Island, as such description is
6 shown upon the United States Coast and Geodetic Survey map numbered
7 6380, published March, 1947, in Washington, D.C., eighth edition.

8 (15) Open Bay reef net fishing area includes those waters lying
9 within 150 feet of shore between lines projected true east from a point
10 on Henry Island at longitude 123° 11' 34 1/2" latitude 48° 35' 27 1/2"
11 at a point 250 feet south, as such descriptions are shown upon the
12 United States Coast and Geodetic Survey map numbered 6380, published
13 March, 1947, in Washington, D.C., eighth edition.

14 (16) Mitchell Reef net fishing area includes those waters within a
15 line beginning at the rock shown on U.S.G.S. map number 6380 at
16 longitude 123° 10' 56" latitude 48° 34' 49 1/2", and projected 50 feet
17 northwesterly, thence southwesterly 250 feet, thence southeasterly 300
18 feet, thence northeasterly 250 feet, thence to the point of beginning,
19 as such descriptions are shown upon the United States Coast and
20 Geodetic Survey map numbered 6380, published March, 1947, in
21 Washington, D.C., eighth edition.

22 (17) Smugglers Cove reef fishing area includes those waters within
23 200 feet of shore between lines projected true west from points on the
24 shore of San Juan Island at longitude 123° 10' 29" latitude 48° 33' 50"
25 and longitude 123° 10' 31" latitude 48° 33' 45", as such descriptions
26 are shown upon the United States Coast and Geodetic Survey map numbered
27 6380, published March, 1947, in Washington, D.C., eighth edition.

28 (18) Andrews Bay reef net fishing area includes those waters lying
29 within 300 feet of the shore of San Juan Island between a line
30 projected true south from a point at the northern entrance of Andrews
31 Bay at longitude 123° 09' 53 1/2" latitude 48° 33' 00" and the cable
32 crossing sign in Andrews Bay, at longitude 123° 09' 45" latitude 48°
33 33' 04", as such descriptions are shown upon the United States Coast
34 and Geodetic Survey map numbered 6380, published March, 1947, in
35 Washington, D.C., eighth edition.

36 (19) Orcas Island reef net fishing area includes those waters
37 inland and inside a line projected true west a distance of 1,000 yards
38 from the shore of Orcas Island at longitude 122° 57' 40" latitude 48°

1 41' 06" thence northeasterly to a point 500 feet true west of Point
2 Doughty, then true east to Point Doughty, as such descriptions are
3 shown upon the United States Coast and Geodetic Survey map numbered
4 6380, published March, 1947, in Washington, D.C., eighth edition.

5 **Sec. 47.** RCW 77.50.070 and 1998 c 190 s 80 are each amended to
6 read as follows:

7 (1) Except as provided in subsection (2) of this section, the
8 (~~commission~~) director shall not authorize gear other than troll gear
9 or angling gear for taking salmon within the offshore waters or the
10 waters of the Pacific Ocean over which the state has jurisdiction lying
11 west of the following line: Commencing at the point of intersection of
12 the international boundary line in the Strait of Juan de Fuca and a
13 line drawn between the lighthouse on Tatoosh Island in Clallam County
14 and Bonilla Point on Vancouver Island; thence southerly to the
15 lighthouse on Tatoosh Island; thence southerly to the most westerly
16 point of Cape Flattery; thence southerly along the state shoreline of
17 the Pacific Ocean, crossing any river mouths at their most westerly
18 points of land, to Point Brown at the entrance to Grays Harbor; thence
19 southerly to Point Chehalis Light on Point Chehalis; thence southerly
20 from Point Chehalis along the state shoreline of the Pacific Ocean to
21 the Cape Shoalwater tower at the entrance to Willapa Bay; thence
22 southerly to Leadbetter Point; thence southerly along the state
23 shoreline of the Pacific Ocean to the inshore end of the North jetty at
24 the entrance to the Columbia River; thence southerly to the knuckle of
25 the South jetty at the entrance to said river.

26 (2) The (~~commission~~) director may authorize the use of nets for
27 taking salmon in the waters described in subsection (1) of this section
28 for scientific investigations.

29 **Sec. 48.** RCW 77.50.090 and 1998 c 190 s 82 are each amended to
30 read as follows:

31 The (~~commission~~) director shall not authorize commercial bottom
32 trawling for food fish and shellfish in all areas of Hood Canal south
33 of a line projected from Tala Point to Foulweather Bluff and in Puget
34 Sound south of a line projected from Foulweather Bluff to Double Bluff
35 and including all marine waters east of Whidbey Island and Camano
36 Island.

1 **Sec. 49.** RCW 77.50.100 and 1998 c 190 s 83 are each amended to
2 read as follows:

3 The (~~commission~~) director shall not authorize any commercial
4 fisher to use more than fifty shrimp pots while commercially fishing
5 for shrimp in that portion of Hood Canal lying south of the Hood Canal
6 floating bridge.

7 **Sec. 50.** RCW 77.50.110 and 1998 c 190 s 84 are each amended to
8 read as follows:

9 The (~~commission~~) director shall not authorize angling gear or
10 other personal use gear for commercial salmon fishing.

11 **Sec. 51.** RCW 77.55.011 and 2005 c 146 s 101 are each amended to
12 read as follows:

13 The definitions in this section apply throughout this chapter
14 unless the context clearly requires otherwise.

15 (1) "Bed" means the land below the ordinary high water lines of
16 state waters. This definition does not include irrigation ditches,
17 canals, storm water runoff devices, or other artificial watercourses
18 except where they exist in a natural watercourse that has been altered
19 by man.

20 (2) "Board" means the hydraulic appeals board created in RCW
21 77.55.301.

22 (3) (~~("Commission" means the state fish and wildlife commission.~~
23 ~~+4)~~) "Department" means the department of fish and wildlife,
24 acting under the authority of, and rules adopted by, the director.

25 (~~+5)~~) (4) "Director" means the director of the department of fish
26 and wildlife.

27 (~~+6)~~) (5) "Emergency" means an immediate threat to life, the
28 public, property, or of environmental degradation.

29 (~~+7)~~) (6) "Hydraulic project" means the construction or
30 performance of work that will use, divert, obstruct, or change the
31 natural flow or bed of any of the salt or freshwaters of the state.

32 (~~+8)~~) (7) "Imminent danger" means a threat by weather, water
33 flow, or other natural conditions that is likely to occur within sixty
34 days of a request for a permit application.

35 (~~+9)~~) (8) "Marina" means a public or private facility providing

1 boat moorage space, fuel, or commercial services. Commercial services
2 include but are not limited to overnight or live-aboard boating
3 accommodations.

4 ~~((+10+))~~ (9) "Marine terminal" means a public or private commercial
5 wharf located in the navigable water of the state and used, or intended
6 to be used, as a port or facility for the storing, handling,
7 transferring, or transporting of goods to and from vessels.

8 ~~((+11+))~~ (10) "Ordinary high water line" means the mark on the
9 shores of all water that will be found by examining the bed and banks
10 and ascertaining where the presence and action of waters are so common
11 and usual, and so long continued in ordinary years as to mark upon the
12 soil or vegetation a character distinct from the abutting upland.
13 Provided, that in any area where the ordinary high water line cannot be
14 found, the ordinary high water line adjoining saltwater is the line of
15 mean higher high water and the ordinary high water line adjoining fresh
16 water is the elevation of the mean annual flood.

17 ~~((+12+))~~ (11) "Permit" means a hydraulic project approval permit
18 issued under this chapter.

19 ~~((+13+))~~ (12) "Sandbars" includes, but is not limited to, sand,
20 gravel, rock, silt, and sediments.

21 ~~((+14+))~~ (13) "Small scale prospecting and mining" means the use of
22 only the following methods: Pans; nonmotorized sluice boxes;
23 concentrators; and minirocker boxes for the discovery and recovery of
24 minerals.

25 ~~((+15+))~~ (14) "Spartina," "purple loosestrife," and "aquatic
26 noxious weeds" have the same meanings as defined in RCW 17.26.020.

27 ~~((+16+))~~ (15) "Streambank stabilization" means those projects that
28 prevent or limit erosion, slippage, and mass wasting. These projects
29 include, but are not limited to, bank resloping, log and debris
30 relocation or removal, planting of woody vegetation, bank protection
31 using rock or woody material or placement of jetties or groins, gravel
32 removal, or erosion control.

33 ~~((+17+))~~ (16) "Tide gate" means a one-way check valve that prevents
34 the backflow of tidal water.

35 ~~((+18+))~~ (17) "Waters of the state" and "state waters" means all
36 salt and fresh waters waterward of the ordinary high water line and
37 within the territorial boundary of the state.

1 **Sec. 52.** RCW 77.55.081 and 2005 c 146 s 401 are each amended to
2 read as follows:

3 (1) By June 30, 1997, the ((department)) director shall develop
4 rules for projects conducted solely for the removal or control of
5 various aquatic noxious weeds other than spartina and purple
6 loosestrife and for activities or hydraulic projects for controlling
7 purple loosestrife not covered by RCW 77.55.051(2). Following the
8 adoption of the rules, the department shall produce and distribute a
9 pamphlet describing the methods of removing or controlling the aquatic
10 noxious weeds that are approved under the rules. The pamphlet serves
11 as the permit for any project that is conducted solely for the removal
12 or control of such aquatic noxious weeds and that is conducted as
13 described in the pamphlet. No further permit is required for such a
14 project.

15 (2) From time to time as information becomes available, the
16 ((department)) director shall adopt similar rules for additional
17 aquatic noxious weeds or additional activities for removing or
18 controlling aquatic noxious weeds not governed by RCW 77.55.051 (1) and
19 (2) and shall produce and distribute one or more pamphlets describing
20 these methods of removal or control. Such a pamphlet serves as the
21 permit for any project that is conducted solely for the removal or
22 control of such aquatic noxious weeds and that is conducted as
23 described in the pamphlet. No further permit is required for such a
24 project.

25 (3) Nothing in this section shall prohibit the department from
26 requiring a permit for those parts of hydraulic projects that are not
27 specifically for the control or removal of spartina, purple
28 loosestrife, or other aquatic noxious weeds.

29 **Sec. 53.** RCW 77.55.091 and 2005 c 146 s 402 are each amended to
30 read as follows:

31 (1) Small scale prospecting and mining shall not require a permit
32 under this chapter if the prospecting is conducted in accordance with
33 rules established by the ((department)) director.

34 (2) By December 31, 1998, the ((department)) director shall adopt
35 rules applicable to small scale prospecting and mining activities
36 subject to this section. The ((department)) director shall develop the

1 rules in cooperation with the recreational mining community and other
2 interested parties.

3 (3) Within two months of adoption of the rules, the department
4 shall distribute an updated gold and fish pamphlet that describes
5 methods of mineral prospecting that are consistent with the
6 (~~department's~~) director's rule. The pamphlet shall be written to
7 clearly indicate the prospecting methods that require a permit under
8 this chapter and the prospecting methods that require compliance with
9 the pamphlet. To the extent possible, the department shall use the
10 provisions of the gold and fish pamphlet to minimize the number of
11 specific provisions of a written permit issued under this chapter.

12 **Sec. 54.** RCW 77.55.191 and 2005 c 146 s 506 are each amended to
13 read as follows:

14 (1) Except for the north fork of the Lewis river and the White
15 Salmon river, all streams and rivers tributary to the Columbia river
16 downstream from McNary dam are established as an anadromous fish
17 sanctuary. This sanctuary is created to preserve and develop the food
18 fish and game fish resources in these streams and rivers and to protect
19 them against undue industrial encroachment.

20 (2) Within the sanctuary area:

21 (a) The department shall not issue a permit to construct a dam
22 greater than twenty-five feet high within the migration range of
23 anadromous fish as determined by the department.

24 (b) A person shall not divert water from rivers and streams in
25 quantities that will reduce the respective stream flow below the annual
26 average low flow, based upon data published in United States geological
27 survey reports.

28 (3) The (~~commission~~) director may acquire and abate a dam or
29 other obstruction, or acquire any water right vested on a sanctuary
30 stream or river, which is in conflict with the provisions of subsection
31 (2) of this section.

32 (4) Subsection (2)(a) of this section does not apply to the
33 sediment retention structure to be built on the North Fork Toutle river
34 by the United States army corps of engineers.

35 **Sec. 55.** RCW 77.60.020 and 1995 1st sp.s. c 2 s 28 are each
36 amended to read as follows:

1 lease for the purpose of establishing reserves or public beaches. The
2 director shall conserve, protect, and develop these reserves and the
3 oyster, shrimp, clam, and mussel beds on state lands.

4 **Sec. 58.** RCW 77.60.110 and 1998 c 153 s 2 are each amended to read
5 as follows:

6 To complement programs authorized by the federal aquatic nuisance
7 species task force, the (~~department of fish and wildlife~~) director is
8 directed to develop draft rules for legislative consideration to
9 prevent the introduction and dispersal of zebra mussels and European
10 green crabs and to allow eradication of infestations that may occur.
11 The department is authorized to display and distribute material and
12 literature informing boaters and owners of airplanes that land on water
13 of the problem and to publicize and maintain a telephone number
14 available to the public to express concerns and report infestations.

15 **Sec. 59.** RCW 77.60.120 and 1998 c 153 s 3 are each amended to read
16 as follows:

17 The (~~department of fish and wildlife~~) director shall prepare,
18 maintain, and publish a list of all lakes, ponds, or other waters of
19 the state and other states infested with zebra mussels or European
20 green crabs. The (~~department~~) director may participate in regional
21 or national groups addressing these species.

22 **Sec. 60.** RCW 77.60.150 and 2001 c 273 s 1 are each amended to read
23 as follows:

24 (1) The (~~department~~) director shall initiate a pilot project to
25 evaluate the feasibility and potential of intensively culturing
26 shellfish on currently nonproductive oyster reserve land in Puget
27 Sound. The pilot program shall include no fewer than three long-term
28 lease agreements with commercial shellfish growers. Except as provided
29 in subsection (4) of this section, revenues from the lease of such
30 lands shall be deposited in the oyster reserve land account created in
31 RCW 77.60.160.

32 (2) The (~~department~~) director shall form one advisory committee
33 each for the Willapa Bay oyster reserve lands and the Puget Sound
34 oyster reserve lands. The advisory committees shall make
35 recommendations on management practices to conserve, protect, and

1 develop oyster reserve lands. The advisory committees may make
2 recommendations regarding the management practices on oyster reserve
3 lands, in particular to ensure that they are managed in a manner that
4 will: (a) Increase revenue through production of high-value shellfish;
5 (b) not be detrimental to the market for shellfish grown on nonreserve
6 lands; and (c) avoid negative impacts to existing shellfish
7 populations. The advisory committees may also make recommendation on
8 the distribution of funds in RCW 77.60.160(2)(a). The ((department))
9 director shall attempt to structure each advisory committee to include
10 equal representation between shellfish growers that participate in
11 reserve sales and shellfish growers that do not.

12 (3) The ((department)) director shall submit a brief progress
13 report on the status of the pilot programs to the appropriate standing
14 committees of the legislature by January 7, 2003.

15 (4) The department of natural resources, in consultation with the
16 ((department of fish and wildlife)) director, shall administer the
17 leases for oyster reserves entered into under this chapter. In
18 administering the leases, the department of natural resources shall
19 exercise its authority under RCW ((79.96.090)) 79.135.300. Vacation of
20 state oyster reserves by the ((department of fish and wildlife))
21 director shall not be a requirement for the department of natural
22 resources to lease any oyster reserves under this section. The
23 department of natural resources may recover reasonable costs directly
24 associated with the administration of the leases for oyster reserves
25 entered into under this chapter. All administrative fees collected by
26 the department of natural resources pursuant to this section shall be
27 deposited into the resource management cost account established in RCW
28 79.64.020. The ((department of fish and wildlife)) director may not
29 assess charges to recover the costs of consulting with the department
30 of natural resources under this subsection.

31 (5) The Puget Sound pilot program shall not include the culture of
32 geoduck.

33 **Sec. 61.** RCW 77.65.020 and 2000 c 107 s 28 are each amended to
34 read as follows:

35 (1) Unless otherwise provided in this title, a license issued under
36 this chapter is not transferable from the license holder to any other
37 person.

1 (2) The following restrictions apply to transfers of commercial
2 fishery licenses, salmon delivery licenses, and salmon charter licenses
3 that are transferable between license holders:

4 (a) The license holder shall surrender the previously issued
5 license to the ((~~department~~)) director.

6 (b) The ((~~department~~)) director shall complete no more than one
7 transfer of the license in any seven-day period.

8 (c) The fee to transfer a license from one license holder to
9 another is:

10 (i) The same as the resident license renewal fee if the license is
11 not limited under chapter 77.70 RCW;

12 (ii) Three and one-half times the resident renewal fee if the
13 license is not a commercial salmon license and the license is limited
14 under chapter 77.70 RCW;

15 (iii) Fifty dollars if the license is a commercial salmon license
16 and is limited under chapter 77.70 RCW;

17 (iv) Five hundred dollars if the license is a Dungeness crab-
18 coastal fishery license; or

19 (v) If a license is transferred from a resident to a nonresident,
20 an additional fee is assessed that is equal to the difference between
21 the resident and nonresident license fees at the time of transfer, to
22 be paid by the transferee.

23 (3) A commercial license that is transferable under this title
24 survives the death of the holder. Though such licenses are not
25 personal property, they shall be treated as analogous to personal
26 property for purposes of inheritance and intestacy. Such licenses are
27 subject to state laws governing wills, trusts, estates, intestate
28 succession, and community property, except that such licenses are
29 exempt from claims of creditors of the estate and tax liens. The
30 surviving spouse, estate, or beneficiary of the estate may apply for a
31 renewal of the license. There is no fee for transfer of a license from
32 a license holder to the license holder's surviving spouse or estate, or
33 to a beneficiary of the estate.

34 **Sec. 62.** RCW 77.65.030 and 2003 c 386 s 5 are each amended to read
35 as follows:

36 The application deadline for a commercial license or permit
37 established in this chapter is December 31st of the calendar year for

1 which the license or permit is sought. The ((~~department~~)) director
2 shall accept no license or permit applications after December 31st of
3 the calendar year for which the license or permit is sought. The
4 application deadline in this section does not apply to a license or
5 permit that has not been renewed because of the death or incapacity of
6 the license or permit holder. The license or permit holder's surviving
7 spouse, estate, estate beneficiary, attorney in fact, or guardian must
8 be given an additional one hundred eighty days to renew the license or
9 permit.

10 **Sec. 63.** RCW 77.65.050 and 1998 c 267 s 1 are each amended to read
11 as follows:

12 (1) Except as otherwise provided in this title, the director shall
13 issue commercial licenses and permits to a qualified person upon
14 receiving a completed application accompanied by the required fee.

15 (2) An application submitted to the department under this chapter
16 shall contain the name and address of the applicant and any other
17 information required by the ((~~department~~)) director or this title. An
18 applicant for a commercial fishery license or delivery license may
19 designate a vessel to be used with the license. An applicant for a
20 commercial fishery license or delivery license may also designate up to
21 two alternate operators.

22 (3) An application submitted to the department under this chapter
23 shall contain the applicant's declaration under penalty of perjury that
24 the information on the application is true and correct.

25 (4) Upon issuing a commercial license under this chapter, the
26 director shall assign the license a unique number that the license
27 shall retain upon renewal. The department shall use the number to
28 record any commercial catch under the license. This does not preclude
29 the department from using other, additional, catch record methods.

30 (5) The fee to replace a license that has been lost or destroyed is
31 twenty dollars.

32 **Sec. 64.** RCW 77.65.070 and 2001 c 244 s 3 are each amended to read
33 as follows:

34 (1) A commercial license issued under this chapter permits the
35 license holder to engage in the activity for which the license is

1 issued in accordance with this title and the rules of the
2 ((department)) director.

3 (2) No security interest or lien of any kind, including tax liens,
4 may be created or enforced in a license issued under this chapter.

5 (3) Unless otherwise provided in this title or rules of the
6 department, commercial licenses and permits issued under this chapter
7 expire at midnight on December 31st of the calendar year for which they
8 are issued. In accordance with this title, licenses may be renewed
9 annually upon application and payment of the prescribed license fees.
10 In accordance with RCW 77.65.030, the ((department)) director must
11 provide a license or permit holder's surviving spouse, estate, or
12 estate beneficiary a reasonable opportunity to renew the license or
13 permit.

14 **Sec. 65.** RCW 77.65.080 and 2000 c 107 s 31 are each amended to
15 read as follows:

16 (1) The ((department)) director shall immediately suspend the
17 license of a person who has been certified pursuant to RCW 74.20A.320
18 by the department of social and health services as a person who is not
19 in compliance with a support order.

20 (2) A listing on the department of licensing's data base that an
21 individual's license is currently suspended pursuant to RCW
22 46.20.291(8) shall be prima facie evidence that the individual is in
23 noncompliance with a support order. Presentation of a written release
24 issued by the department of social and health services or a court
25 stating that the person is in compliance with an order shall serve as
26 proof of compliance.

27 **Sec. 66.** RCW 77.65.090 and 1994 c 260 s 11 are each amended to
28 read as follows:

29 This section applies to all commercial fishery licenses, delivery
30 licenses, and charter licenses, except for emergency salmon delivery
31 licenses.

32 (1) The holder of a license subject to this section may substitute
33 the vessel designated on the license or designate a vessel if none has
34 previously been designated if the license holder:

35 (a) Surrenders the previously issued license to the department;

1 (b) Submits to the department an application that identifies the
2 currently designated vessel, the vessel proposed to be designated, and
3 any other information required by the department; and

4 (c) Pays to the department a fee of thirty-five dollars.

5 (2) Unless the license holder owns all vessels identified on the
6 application described in subsection (1)(b) of this section or unless
7 the vessel is designated on a Dungeness crab-coastal or a Dungeness
8 crab-coastal class B fishery license, the following restrictions apply
9 to changes in vessel designation:

10 (a) The ((department)) director shall change the vessel designation
11 on the license no more than four times per calendar year.

12 (b) The ((department)) director shall change the vessel designation
13 on the license no more than once in any seven-day period.

14 **Sec. 67.** RCW 77.65.130 and 2005 c 82 s 2 are each amended to read
15 as follows:

16 (1) A person who holds a commercial fishery license or a delivery
17 license may operate the vessel designated on the license. A person who
18 is not the license holder may operate the vessel designated on the
19 license only if:

20 (a) The person holds an alternate operator license issued by the
21 director; and

22 (b) The person is designated as an alternate operator on the
23 underlying commercial fishery license or delivery license under RCW
24 77.65.110.

25 (2) Only an individual at least sixteen years of age may hold an
26 alternate operator license.

27 (3) No individual may hold more than one alternate operator
28 license. An individual who holds an alternate operator license may be
29 designated as an alternate operator on an unlimited number of
30 commercial fishery licenses or delivery licenses under RCW 77.65.110.

31 (4) An individual who holds two Dungeness crab--Puget Sound fishery
32 licenses may operate the licenses on one vessel if the license holder
33 or alternate operator is on the vessel. The ((department)) director
34 shall allow a license holder to operate up to one hundred crab pots for
35 each license.

36 (5) Two persons owning separate Dungeness crab--Puget Sound fishery

1 licenses may operate both licenses on one vessel if the license holders
2 or their alternate operators are on the vessel.

3 (6) As used in this section, to "operate" means to control the
4 deployment or removal of fishing gear from state waters while aboard a
5 vessel or to operate a vessel delivering food fish or shellfish taken
6 in offshore waters to a port within the state.

7 **Sec. 68.** RCW 77.65.160 and 2001 c 244 s 1 are each amended to read
8 as follows:

9 (1) The following commercial salmon fishery licenses are required
10 for the license holder to use the specified gear to fish for salmon in
11 state waters. Only a person who meets the qualifications of RCW
12 77.70.090 may hold a license listed in this subsection. The licenses
13 and their annual fees and surcharges under RCW 77.95.090 are:

14	Fishery	Resident	Nonresident	Surcharge
15	License	Fee	Fee	
16	(a) Salmon Gill Net--Grays	\$380	\$685	plus \$100
17	Harbor-Columbia river			
18	(b) Salmon Gill Net--Puget	\$380	\$685	plus \$100
19	Sound			
20	(c) Salmon Gill Net--Willapa	\$380	\$685	plus \$100
21	Bay-Columbia river			
22	(d) Salmon purse seine	\$530	\$985	plus \$100
23	(e) Salmon reef net	\$380	\$685	plus \$100
24	(f) Salmon troll	\$380	\$685	plus \$100

25 (2) A license issued under this section authorizes no taking or
26 delivery of salmon or other food fish unless a vessel is designated
27 under RCW 77.65.100.

28 (3) Holders of commercial salmon fishery licenses may retain
29 incidentally caught food fish other than salmon, subject to rules of
30 the ((department)) director.

31 (4) A salmon troll license includes a salmon delivery license.

32 (5) A salmon gill net license authorizes the taking of salmon only
33 in the geographical area for which the license is issued. The
34 geographical designations in subsection (1) of this section have the
35 following meanings:

36 (a) "Puget Sound" includes waters of the Strait of Juan de Fuca,
37 Georgia Strait, Puget Sound and all bays, inlets, canals, coves,

1 sounds, and estuaries lying easterly and southerly of the international
2 boundary line and a line at the entrance to the Strait of Juan de Fuca
3 projected northerly from Cape Flattery to the lighthouse on Tatoosh
4 Island and then to Bonilla Point on Vancouver Island.

5 (b) "Grays Harbor-Columbia river" includes waters of Grays Harbor
6 and tributary estuaries lying easterly of a line projected northerly
7 from Point Chehalis Light to Point Brown and those waters of the
8 Columbia river and tributary sloughs and estuaries easterly of a line
9 at the entrance to the Columbia river projected southerly from the most
10 westerly point of the North jetty to the most westerly point of the
11 South jetty.

12 (c) "Willapa Bay-Columbia river" includes waters of Willapa Bay and
13 tributary estuaries and easterly of a line projected northerly from
14 Leadbetter Point to the Cape Shoalwater tower and those waters of the
15 Columbia river and tributary sloughs described in (b) of this
16 subsection.

17 (6) A commercial salmon troll fishery license may be renewed under
18 this section if the license holder notifies the department by May 1st
19 of that year that he or she will not participate in the fishery during
20 that calendar year. A commercial salmon gill net, reef net, or seine
21 fishery license may be renewed under this section if the license holder
22 notifies the department before the third Monday in September of that
23 year that he or she will not participate in the fishery during that
24 calendar year. The license holder must pay the one hundred-dollar
25 enhancement surcharge, plus a fifteen-dollar handling charge before the
26 third Monday in September, in order to be considered a valid renewal
27 and eligible to renew the license the following year.

28 (7) Notwithstanding the annual license fees and surcharges
29 established in subsection (1) of this section, a person who holds a
30 resident commercial salmon fishery license shall pay an annual license
31 fee of one hundred dollars plus the surcharge if all of the following
32 conditions are met:

33 (a) The license holder is at least seventy-five years of age;

34 (b) The license holder owns a fishing vessel and has fished with a
35 resident commercial salmon fishery license for at least thirty years;
36 and

37 (c) The commercial salmon fishery license is for a geographical
38 area other than the Puget Sound.

1 An alternate operator may not be designated for a license renewed
2 at the one hundred dollar annual fee under this subsection (7).

3 **Sec. 69.** RCW 77.65.180 and 2000 c 107 s 39 are each amended to
4 read as follows:

5 (1) The legislature finds that landing salmon into the ports of
6 Washington state, regardless of where such salmon have been harvested,
7 is economically beneficial to those ports as well as to the citizens of
8 the state of Washington. It is therefore the intent of the legislature
9 to encourage this practice.

10 (2) Notwithstanding the provisions of RCW 77.65.010(1)(b) and
11 77.65.170, a Washington citizen who holds a valid Oregon or California
12 salmon troll license may land salmon taken during lawful seasons in
13 Oregon and California into Washington ports without obtaining a salmon
14 delivery license. This exception is valid only when the salmon were
15 taken in offshore waters south of Cape Falcon.

16 (3) The ((department)) director shall adopt rules necessary to
17 implement this section, including rules identifying the appropriate
18 methods for verifying that salmon were in fact taken south of Cape
19 Falcon.

20 **Sec. 70.** RCW 77.65.310 and 1996 c 267 s 29 are each amended to
21 read as follows:

22 Wholesale fish dealers are responsible for documenting the
23 commercial harvest of food fish and shellfish according to the rules of
24 the ((department)) director. The director may allow only wholesale
25 fish dealers or their designees to receive the forms necessary for the
26 accounting of the commercial harvest of food fish and shellfish.

27 **Sec. 71.** RCW 77.65.320 and 2000 c 107 s 49 are each amended to
28 read as follows:

29 (1) A wholesale fish dealer shall not take possession of food fish
30 or shellfish until the dealer has deposited with the department an
31 acceptable performance bond on forms prescribed and furnished by the
32 department. This performance bond shall be a corporate surety bond
33 executed in favor of the department by a corporation authorized to do
34 business in the state of Washington under chapter 48.28 RCW and
35 approved by the department. The bond shall be filed and maintained in

1 an amount equal to one thousand dollars for each buyer engaged by the
2 wholesale dealer. In no case shall the bond be less than two thousand
3 dollars nor more than fifty thousand dollars.

4 (2) A wholesale dealer shall, within seven days of engaging
5 additional fish buyers, notify the department and increase the amount
6 of the bonding required in subsection (1) of this section.

7 (3) The director may suspend and refuse to reissue a wholesale fish
8 dealer's license of a dealer who has taken possession of food fish or
9 shellfish without an acceptable performance bond on deposit with the
10 department.

11 (4) The bond shall be conditioned upon the compliance with the
12 requirements of this chapter and rules of the ((department)) director
13 relating to the payment of fines for violations of rules for the
14 accounting of the commercial harvest of food fish or shellfish. In
15 lieu of the surety bond required by this section the wholesale fish
16 dealer may file with the department a cash deposit, negotiable
17 securities acceptable to the department, or an assignment of a savings
18 account or of a savings certificate in a Washington bank on an
19 assignment form prescribed by the department.

20 (5) Liability under the bond shall be maintained as long as the
21 wholesale fish dealer engages in activities under RCW 77.65.280 unless
22 released. Liability under the bond may be released only upon written
23 notification from the department. Notification shall be given upon
24 acceptance by the department of a substitute bond or forty-five days
25 after the expiration of the wholesale fish dealer's annual license. In
26 no event shall the liability of the surety exceed the amount of the
27 surety bond required under this chapter.

28 **Sec. 72.** RCW 77.65.350 and 1996 c 267 s 31 are each amended to
29 read as follows:

30 (1) A salmon roe license is required for a crew member on a boat
31 designated on a salmon charter license to sell salmon roe as provided
32 in subsection (2) of this section. An individual under sixteen years
33 of age may hold a salmon roe license.

34 (2) A crew member on a boat designated on a salmon charter license
35 may sell salmon roe taken from fish caught for personal use, subject to
36 rules of the ((department)) director and the following conditions:

37 (a) The salmon is taken by an angler fishing on the charter boat;

1 (b) The roe is the property of the angler until the roe is given to
2 the crew member. The crew member shall notify the charter boat's
3 passengers of this fact;

4 (c) The crew member sells the roe to a licensed wholesale dealer;
5 and

6 (d) The crew member is licensed as provided in subsection (1) of
7 this section and has the license in possession whenever the crew member
8 sells salmon roe.

9 **Sec. 73.** RCW 77.65.420 and 2000 c 107 s 53 are each amended to
10 read as follows:

11 By July 1, 1994, the (~~commission~~) director jointly with the
12 appropriate Indian tribes, shall each establish a wild salmonid policy.
13 The policy shall ensure that department actions and programs are
14 consistent with the goals of rebuilding wild stock populations to
15 levels that permit commercial and recreational fishing opportunities.

16 **Sec. 74.** RCW 77.65.510 and 2003 c 387 s 2 are each amended to read
17 as follows:

18 (1) The (~~department~~) director must establish and administer a
19 direct retail endorsement to serve as a single license that permits the
20 holder of a Washington license to commercially harvest retail-eligible
21 species and to clean, dress, and sell his or her catch directly to
22 consumers at retail, including over the internet. The direct retail
23 endorsement must be issued as an optional addition to all holders of a
24 commercial fishing license for retail-eligible species that the
25 department offers under this chapter.

26 (2) The direct retail endorsement must be offered at the time of
27 application for the qualifying commercial fishing license. Individuals
28 in possession of a qualifying commercial fishing license issued under
29 this chapter may add a direct retail endorsement to their current
30 license at any time. Individuals who do not have a commercial fishing
31 license for retail-eligible species issued under this chapter may not
32 receive a direct retail endorsement. The costs, conditions,
33 responsibilities, and privileges associated with the endorsed
34 commercial fishing license is not affected or altered in any way by the
35 addition of a direct retail endorsement. These costs include the base
36 cost of the license and any revenue and excise taxes.

1 (3) An individual need only add one direct retail endorsement to
2 his or her license portfolio. If a direct retail endorsement is
3 selected by an individual holding more than one commercial fishing
4 license issued under this chapter, a single direct retail endorsement
5 is considered to be added to all qualifying commercial fishing licenses
6 held by that individual, and is the only license required for the
7 individual to sell at retail any retail-eligible species permitted by
8 all of the underlying endorsed licenses. The direct retail endorsement
9 applies only to the person named on the endorsed license, and may not
10 be used by an alternate operator named on the endorsed license.

11 (4) In addition to any fees charged for the endorsed licenses and
12 harvest documentation as required by this chapter or the rules of the
13 (~~department~~) director, the (~~department~~) director may set a
14 reasonable annual fee not to exceed the administrative costs to the
15 department for a direct retail endorsement.

16 (5) The holder of a direct retail endorsement is responsible for
17 documenting the commercial harvest of salmon and crab according to the
18 provisions of this chapter, the rules of the (~~department~~) director
19 for a wholesale fish dealer, and the reporting requirements of the
20 endorsed license. Any retail-eligible species caught by the holder of
21 a direct retail endorsement must be documented on fish tickets.

22 (6) The direct retail endorsement must be displayed in a readily
23 visible manner by the seller wherever and whenever a sale to someone
24 other than a licensed wholesale dealer occurs. The (~~commission~~)
25 director may require that the holder of a direct retail endorsement
26 notify the department up to eighteen hours before conducting an in-
27 person sale of retail-eligible species, except for in-person sales that
28 have a cumulative retail sales value of less than one hundred fifty
29 dollars in a twenty-four hour period that are sold directly from the
30 vessel. For sales occurring in a venue other than in person, such as
31 over the internet, through a catalog, or on the phone, the direct
32 retail endorsement number of the seller must be provided to the buyer
33 both at the time of sale and the time of delivery. All internet sales
34 must be conducted in accordance with federal laws and regulations.

35 (7) The direct retail endorsement is to be held by a natural person
36 and is not transferrable or assignable. If the endorsed license is
37 transferred, the direct retail endorsement immediately becomes void,
38 and the transferor is not eligible for a full or prorated reimbursement

1 of the annual fee paid for the direct retail endorsement. Upon
2 becoming void, the holder of a direct retail endorsement must surrender
3 the physical endorsement to the department.

4 (8) The holder of a direct retail endorsement must abide by the
5 provisions of Title 69 RCW as they apply to the processing and retail
6 sale of seafood. The department must distribute a pamphlet, provided
7 by the department of agriculture, with the direct retail endorsement
8 generally describing the labeling requirements set forth in chapter
9 69.04 RCW as they apply to seafood.

10 (9) The holder of a qualifying commercial fishing license issued
11 under this chapter must either possess a direct retail endorsement or
12 a wholesale dealer license provided for in RCW 77.65.280 in order to
13 lawfully sell their catch or harvest in the state to anyone other than
14 a licensed wholesale dealer.

15 (10) The direct retail endorsement entitles the holder to sell a
16 retail-eligible species only at a temporary food service establishment
17 as that term is defined in RCW 69.06.045, or directly to a restaurant
18 or other similar food service business.

19 **Sec. 75.** RCW 77.65.520 and 2003 c 387 s 4 are each amended to read
20 as follows:

21 (1) The direct retail endorsement is conditioned upon compliance:

22 (a) With the requirements of this chapter as they apply to
23 wholesale fish dealers and to the rules of the (~~department~~) director
24 relating to the payment of fines for violations of rules for the
25 accounting of the commercial harvest of retail-eligible species; and

26 (b) With the state board of health and local rules for food service
27 establishments.

28 (2) Violations of the requirements and rules referenced in
29 subsection (1) of this section may result in the suspension of the
30 direct retail endorsement. The suspended individual must not be
31 reimbursed for any portion of the suspended endorsement. Suspension of
32 the direct retail endorsement may not occur unless and until:

33 (a) The director has notified by order the holder of the direct
34 retail endorsement when a violation of subsection (1) of this section
35 has occurred. The notification must specify the type of violation, the
36 liability to be imposed for damages caused by the violation, a notice

1 that the amount of liability is due and payable by the holder of the
2 direct retail endorsement, and an explanation of the options available
3 to satisfy the liability; and

4 (b) The holder of the direct retail endorsement has had at least
5 ninety days after the notification provided in (a) of this subsection
6 was received to either make full payment for all liabilities owed or
7 enter into an agreement with the department to pay off all liabilities
8 within a reasonable time.

9 (3)(a) If, within ninety days after receipt of the order provided
10 in subsection (2)(a) of this section, the amount specified in the order
11 is not paid or the holder of the direct retail endorsement has not
12 entered into an agreement with the ((department)) director to pay off
13 all liabilities, the prosecuting attorney for any county in which the
14 persons to whom the order is directed do business, or the attorney
15 general upon request of the ((department)) director, may bring an
16 action on behalf of the state in the superior court for Thurston
17 county, or any county in which the persons to whom the order is
18 directed do business, to seek suspension of the individual's direct
19 retail endorsement for up to five years.

20 (b) The ((department)) director may temporarily suspend the
21 privileges provided by the direct retail endorsement for up to one
22 hundred twenty days following the receipt of the order provided in
23 subsection (2)(a) of this section, unless the holder of the direct
24 retail endorsement has deposited with the department an acceptable
25 performance bond on forms prescribed and provided by the department.
26 This performance bond must be a corporate surety bond executed in favor
27 of the department by a corporation authorized to do business in the
28 state of Washington under chapter 48.28 RCW and approved by the
29 department. The bond must be filed and maintained in an amount equal
30 to one thousand dollars.

31 (4) For violations of state board of health and local rules under
32 subsection (1)(b) of this section only, any person inspecting the
33 facilities of a direct retail endorsement holder under RCW 77.65.515
34 may suspend the privileges granted by the endorsement for up to seven
35 days. Within twenty-four hours of the discovery of the violation, the
36 inspecting entity must notify the department of the violation. Upon
37 notification, the ((department)) director may proceed with the
38 procedures outlined in this section for suspension of the endorsement.

1 If the violation of a state board of health rule is discovered by a
2 local health department, that local jurisdiction may fine the holder of
3 the direct retail endorsement according to the local jurisdiction's
4 rules as they apply to retail food operations.

5 (5) Subsections (2) and (3) of this section do not apply to a
6 holder of a direct retail endorsement that executes a surety bond and
7 abides by the conditions established in RCW 77.65.320 and 77.65.330 as
8 they apply to wholesale dealers.

9 **Sec. 76.** RCW 77.70.010 and 2001 c 253 s 57 are each amended to
10 read as follows:

11 (1) A license renewed under the provisions of this chapter that has
12 been suspended under RCW 77.65.080 shall be subject to the following
13 provisions:

14 (a) A license renewal fee shall be paid as a condition of
15 maintaining a current license; and

16 (b) The ((department)) director shall waive any other license
17 requirements, unless the ((department)) director determines that the
18 license holder has had sufficient opportunity to meet these
19 requirements.

20 (2) The provisions of subsection (1) of this section shall apply
21 only to a license that has been suspended under RCW 77.65.080 for a
22 period of twelve months or less. A license holder shall forfeit a
23 license subject to this chapter and may not recover any license renewal
24 fees previously paid if the license holder does not meet the
25 requirements of RCW 74.20A.320(9) within twelve months of license
26 suspension.

27 **Sec. 77.** RCW 77.70.130 and 2000 c 107 s 67 are each amended to
28 read as follows:

29 (1) A person shall not commercially take whiting from areas that
30 the ((department)) director designates within the waters described in
31 RCW 77.65.160(5)(a) without a whiting-Puget Sound fishery license.

32 (2) A whiting-Puget Sound fishery license may be issued only to an
33 individual who:

34 (a) Delivered at least fifty thousand pounds of whiting during the
35 period from January 1, 1981, through February 22, 1985, as verified by
36 fish delivery tickets;

1 (b) Possessed, on January 1, 1986, all equipment necessary to fish
2 for whiting; and

3 (c) Held a whiting-Puget Sound fishery license during the previous
4 year or acquired such a license by transfer from someone who held it
5 during the previous year.

6 (3) After January 1, 1995, the director shall issue no new whiting-
7 Puget Sound fishery licenses. After January 1, 1995, only an
8 individual who meets the following qualifications may renew an existing
9 license: The individual shall have held the license sought to be
10 renewed during the previous year or acquired the license by transfer
11 from someone who held it during the previous year, and shall not have
12 subsequently transferred the license to another person.

13 (4) Whiting-Puget Sound fishery licenses may be renewed each year.
14 A whiting-Puget Sound fishery license that is not renewed each year
15 shall not be renewed further.

16 **Sec. 78.** RCW 77.70.150 and 2005 c 110 s 1 are each amended to read
17 as follows:

18 (1) A sea urchin dive fishery license is required to take sea
19 urchins for commercial purposes. A sea urchin dive fishery license
20 authorizes the use of only one diver in the water at any time during
21 sea urchin harvest operations. If the same vessel has been designated
22 on two sea urchin dive fishery licenses, two divers may be in the
23 water. A natural person may not hold more than two sea urchin dive
24 fishery licenses.

25 (2) Except as provided in subsection (6) of this section, the
26 director shall issue no new sea urchin dive fishery licenses. For
27 licenses issued for the year 2000 and thereafter, the director shall
28 renew existing licenses only to a natural person who held the license
29 at the end of the previous year. If a sea urchin dive fishery license
30 is not held by a natural person as of December 31, 1999, it is not
31 renewable. However, if the license is not held because of revocation
32 or suspension of licensing privileges, the director shall renew the
33 license in the name of a natural person at the end of the revocation or
34 suspension if the license holder applies for renewal of the license
35 before the end of the year in which the revocation or suspension ends.

36 (3) Where a licensee failed to obtain the license during the
37 previous year because of a license suspension or revocation by the

1 director or the court, the licensee may qualify for a license by
2 establishing that the person held such a license during the last year
3 in which the person was eligible.

4 (4) Surcharges as provided for in this section shall be collected
5 and deposited into the sea urchin dive fishery account hereby created
6 in the custody of the state treasurer. Only the director or the
7 director's designee may authorize expenditures from the account. The
8 sea urchin dive fishery account is subject to allotment procedures
9 under chapter 43.88 RCW, but no appropriation is required for
10 expenditures. Expenditures from the account shall only be used to
11 retire sea urchin licenses until the number of licenses is reduced to
12 twenty-five, and thereafter shall only be used for sea urchin
13 management and enforcement.

14 (a) A surcharge of one hundred dollars shall be charged with each
15 sea urchin dive fishery license renewal for licenses issued in 2000
16 through 2010.

17 (b) For licenses issued for the year 2000 and thereafter, a
18 surcharge shall be charged on the sea urchin dive fishery license for
19 designating an alternate operator. The surcharge shall be as follows:
20 Five hundred dollars for the first year or each of the first two
21 consecutive years after 1999 that any alternate operator is designated
22 and two thousand five hundred dollars each year thereafter that any
23 alternate operator is designated.

24 (5) Sea urchin dive fishery licenses are transferable. After
25 December 31, 1999, there is a surcharge to transfer a sea urchin dive
26 fishery license. The surcharge is five hundred dollars for the first
27 transfer of a license valid for calendar year 2000, and two thousand
28 five hundred dollars for any subsequent transfer, whether occurring in
29 the year 2000 or thereafter. Notwithstanding this subsection, a one-
30 time transfer exempt from surcharge applies for a transfer from the
31 natural person licensed on January 1, 2000, to that person's spouse or
32 child.

33 (6) If fewer than twenty-five natural persons are eligible for sea
34 urchin dive fishery licenses, the director may accept applications for
35 new licenses. The additional licenses may not cause more than twenty-
36 five natural persons to be eligible for a sea urchin dive fishery
37 license. New licenses issued under this section shall be distributed

1 according to rules of the ((department)) director that recover the
2 value of such licensed privilege.

3 **Sec. 79.** RCW 77.70.180 and 2001 c 163 s 3 are each amended to read
4 as follows:

5 (1) Within five years after adopting rules to govern the number and
6 qualifications of participants in an emerging commercial fishery, the
7 director shall provide to the appropriate senate and house of
8 representatives committees a report which outlines the status of the
9 fishery and a recommendation as to whether a separate commercial
10 fishery license, license fee, or limited harvest program should be
11 established for that fishery.

12 (2) For any emerging commercial fishery designated under RCW
13 77.50.030, the report must also include:

14 (a) Information on the extent of the program, including to what
15 degree mass marking and supplementation programs have been utilized in
16 areas where emerging commercial fisheries using selective fishing gear
17 have been authorized;

18 (b) Information on the benefit provided to commercial fishers
19 including information on the effectiveness of emerging commercial
20 fisheries using selective fishing gear in providing expanded fishing
21 opportunity within mixed stocks of salmon;

22 (c) Information on the effectiveness of selective fishing gear in
23 minimizing postrelease mortality for nontarget stocks, harvesting fish
24 so that they are not damaged by the gear, and aiding the creation of
25 niche markets; and

26 (d) Information on the ((department's)) director's efforts at
27 operating hatcheries in an experimental fashion by managing wild and
28 hatchery origin fish as a single run as an alternative to mass marking
29 and the utilization of selective fishing gear. The ((department))
30 director shall consult with commercial fishers, recreational fishers,
31 federally recognized treaty tribes with a fishing right, regional
32 fisheries enhancement groups, and other affected parties to obtain
33 their input in preparing the report under this subsection (2).

34 **Sec. 80.** RCW 77.70.190 and 2005 c 110 s 2 are each amended to read
35 as follows:

36 (1) A sea cucumber dive fishery license is required to take sea

1 cucumbers for commercial purposes. A sea cucumber dive fishery license
2 authorizes the use of only one diver in the water at any time during
3 sea cucumber harvest operations. If the same vessel has been
4 designated on two sea cucumber dive fishery licenses, two divers may be
5 in the water. A natural person may not hold more than two sea cucumber
6 dive fishery licenses.

7 (2) Except as provided in subsection (6) of this section, the
8 director shall issue no new sea cucumber dive fishery licenses. For
9 licenses issued for the year 2000 and thereafter, the director shall
10 renew existing licenses only to a natural person who held the license
11 at the end of the previous year. If a sea cucumber dive fishery
12 license is not held by a natural person as of December 31, 1999, it is
13 not renewable. However, if the license is not held because of
14 revocation or suspension of licensing privileges, the director shall
15 renew the license in the name of a natural person at the end of the
16 revocation or suspension if the license holder applies for renewal of
17 the license before the end of the year in which the revocation or
18 suspension ends.

19 (3) Where a licensee failed to obtain the license during either of
20 the previous two years because of a license suspension by the director
21 or the court, the licensee may qualify for a license by establishing
22 that the person held such a license during the last year in which the
23 person was eligible.

24 (4) Surcharges as provided for in this section shall be collected
25 and deposited into the sea cucumber dive fishery account hereby created
26 in the custody of the state treasurer. Only the director or the
27 director's designee may authorize expenditures from the account. The
28 sea cucumber dive fishery account is subject to allotment procedures
29 under chapter 43.88 RCW, but no appropriation is required for
30 expenditures. Expenditures from the account shall only be used to
31 retire sea cucumber licenses until the number of licenses is reduced to
32 twenty-five, and thereafter shall only be used for sea cucumber
33 management and enforcement.

34 (a) A surcharge of one hundred dollars shall be charged with each
35 sea cucumber dive fishery license renewal for licenses issued in 2000
36 through 2010.

37 (b) For licenses issued for the year 2000 and thereafter, a
38 surcharge shall be charged on the sea cucumber dive fishery license for

1 designating an alternate operator. The surcharge shall be as follows:
2 Five hundred dollars for the first year or each of the first two
3 consecutive years after 1999 that any alternate operator is designated
4 and two thousand five hundred dollars each year thereafter that any
5 alternate operator is designated.

6 (5) Sea cucumber dive fishery licenses are transferable. After
7 December 31, 1999, there is a surcharge to transfer a sea cucumber dive
8 fishery license. The surcharge is five hundred dollars for the first
9 transfer of a license valid for calendar year 2000 and two thousand
10 five hundred dollars for any subsequent transfer whether occurring in
11 the year 2000 or thereafter. Notwithstanding this subsection, a one-
12 time transfer exempt from surcharge applies for a transfer from the
13 natural person licensed on January 1, 2000, to that person's spouse or
14 child.

15 (6) If fewer than twenty-five persons are eligible for sea cucumber
16 dive fishery licenses, the director may accept applications for new
17 licenses. The additional licenses may not cause more than twenty-five
18 natural persons to be eligible for a sea cucumber dive fishery license.
19 New licenses issued under this section shall be distributed according
20 to rules of the ((~~department~~)) director that recover the value of such
21 licensed privilege.

22 **Sec. 81.** RCW 77.70.210 and 2000 c 107 s 70 are each amended to
23 read as follows:

24 (1) A herring spawn on kelp fishery license is required to
25 commercially take herring eggs which have been deposited on vegetation
26 of any type.

27 (2) A herring spawn on kelp fishery license may be issued only to
28 a person who:

29 (a) Holds a herring fishery license issued under RCW 77.65.200 and
30 77.70.120; and

31 (b) Is the highest bidder in an auction conducted under subsection
32 (3) of this section.

33 (3) The ((~~department~~)) director shall sell herring spawn on kelp
34 commercial fishery licenses at auction to the highest bidder. Bidders
35 shall identify their sources of kelp. Kelp harvested from state-owned
36 aquatic lands as defined in RCW ((~~79.90.465~~)) 79.105.060 requires the

1 written consent of the department of natural resources. The
2 ((department)) director shall give all holders of herring fishery
3 licenses thirty days' notice of the auction.

4 **Sec. 82.** RCW 77.70.330 and 1994 c 260 s 8 are each amended to read
5 as follows:

6 Expenditures from the coastal crab account may be made by the
7 ((department)) director for management of the coastal crab resource.
8 Management activities may include studies of resource viability,
9 interstate negotiations concerning regulation of the offshore crab
10 resource, resource enhancement projects, or other activities as
11 determined by the department.

12 **Sec. 83.** RCW 77.70.350 and 2006 c 159 s 1 are each amended to read
13 as follows:

14 (1) The following restrictions apply to vessel designations and
15 substitutions on Dungeness crab-coastal fishery licenses:

16 (a) The holder of the license may not:

17 (i) Designate on the license a vessel the hull length of which
18 exceeds ninety-nine feet; or

19 (ii) Change vessel designation if the hull length of the vessel
20 proposed to be designated exceeds the hull length designated on the
21 license on June 7, 2006, by more than ten feet. However, if such
22 vessel designation is the result of an emergency transfer, the
23 applicable vessel length would be the most recent permanent vessel
24 designation on the license prior to June 7, 2006;

25 (b) If the hull length of the vessel proposed to be designated is
26 comparable to or exceeds by up to one foot the hull length of the
27 currently designated vessel, the ((department)) director may change the
28 vessel designation no more than once in any two consecutive Washington
29 state coastal crab seasons unless the currently designated vessel is
30 lost or in disrepair such that it does not safely operate, in which
31 case the ((department)) director may allow a change in vessel
32 designation;

33 (c) If the hull length of the vessel proposed to be designated
34 exceeds by between one and ten feet the hull length of the designated
35 vessel on June 7, 2006, the ((department)) director may change the
36 vessel designation no more than once on or after June 7, 2006, unless

1 a request is made by the license holder during a Washington state
2 coastal crab season for an emergency change in vessel designation. If
3 such an emergency request is made, the director may allow a temporary
4 change in designation to another vessel, if the hull length of the
5 other vessel does not exceed by more than ten feet the hull length of
6 the currently designated vessel.

7 (2) For the purposes of this section, "hull length" means the
8 length overall of a vessel's hull as shown by marine survey or by
9 manufacturer's specifications.

10 (3) By December 31, 2010, the (~~department~~) director must, in
11 cooperation with the coastal crab fishing industry, evaluate the
12 effectiveness of this section and, if necessary, recommend any
13 statutory changes to the appropriate committees of the senate and house
14 of representatives.

15 **Sec. 84.** RCW 77.70.400 and 2001 c 228 s 1 are each amended to read
16 as follows:

17 The (~~department~~) director, with input from Dungeness crab--
18 coastal fishery licensees and processors, shall prepare a resource plan
19 to achieve even-flow harvesting and long-term stability of the coastal
20 Dungeness crab resource. The plan may include pot limits, further
21 reduction in the number of vessels, individual quotas, trip limits,
22 area quotas, or other measures as determined by the (~~department~~)
23 director. The provisions of such a resource plan that are designed to
24 effect a gear reduction or effort reduction based upon historical
25 landing criteria are subject to the provisions of RCW 77.70.390 with
26 respect to the consideration of extenuating circumstances.

27 **Sec. 85.** RCW 77.70.410 and 2001 c 105 s 1 are each amended to read
28 as follows:

29 (1) The shrimp pot-Puget Sound fishery is a limited entry fishery
30 and a person shall not fish for shrimp taken from Puget Sound for
31 commercial purposes with shrimp pot gear except under the provisions of
32 a shrimp pot-Puget Sound fishery license issued under RCW 77.65.220.

33 (2) A shrimp pot-Puget Sound fishery license shall only be issued
34 to a natural person who held a shrimp pot-Puget Sound fishery license
35 during the previous year, except upon the death of the licensee the

1 license shall be treated as analogous to personal property for purposes
2 of inheritance and intestacy.

3 (3) No more than two shrimp pot-Puget Sound fishery licenses may be
4 owned by a licensee. The licensee must transfer the second license
5 into the licensee's name, and designate on the second license the same
6 vessel as is designated on the first license at the time of the
7 transfer. Licensees who hold two shrimp pot-Puget Sound fishery
8 licenses may not transfer one of the two licenses for a twelve-month
9 period beginning on the date the second license is transferred to the
10 licensee, but the licensee may transfer both licenses to another
11 natural person. The nontransferability provisions of this subsection
12 start anew for the receiver of the two licenses. Licensees who hold
13 two shrimp pot-Puget sound fishery licenses may fish one and one-half
14 times the maximum number of pots allowed for Puget Sound shrimp, and
15 may retain and land one and one-half times the maximum catch limits
16 established for Puget Sound shrimp taken with shellfish pot gear.

17 (4) Through December 31, 2001, shrimp pot-Puget Sound fishery
18 licenses are transferable only to a current shrimp pot-Puget Sound
19 fishery licensee, or upon death of the licensee. Beginning January 1,
20 2002, shrimp pot-Puget Sound commercial fishery licenses are
21 transferable, except holders of two shrimp pot-Puget Sound licenses are
22 subject to nontransferability provisions as provided for in this
23 section.

24 (5) Through December 31, 2001, a shrimp pot-Puget Sound licensee
25 may designate any natural person as the alternate operator for the
26 license. Beginning January 1, 2002, a shrimp pot-Puget Sound licensee
27 may designate only an immediate family member, as defined in RCW
28 77.12.047, as the alternate operator. A licensee with a bona fide
29 medical emergency may designate a person other than an immediate family
30 member as the alternate operator for a period not to exceed two years,
31 provided the licensee documents the medical emergency with letters from
32 two medical doctors describing the illness or condition that prevents
33 the licensee from participating in the fishery. The two-year period
34 may be extended by the director upon recommendation of a (~~department-~~
35 ~~appointed~~) director-appointed Puget Sound shrimp advisory board. If
36 the licensee has no immediate family member who is capable of operating
37 the license, the licensee may make a request to the Puget Sound shrimp
38 advisory board to designate an alternate operator who is not an

1 immediate family member, and upon recommendation of the Puget Sound
2 shrimp advisory board, the director may allow designation of an
3 alternate operator who is not an immediate family member.

4 **Sec. 86.** RCW 77.70.420 and 2001 c 105 s 2 are each amended to read
5 as follows:

6 (1) The shrimp trawl-Puget Sound fishery is a limited entry fishery
7 and a person shall not fish for shrimp taken from Puget Sound for
8 commercial purposes with shrimp trawl gear except under the provisions
9 of a shrimp trawl-Puget Sound fishery license issued under RCW
10 77.65.220.

11 (2) A shrimp trawl-Puget Sound fishery license shall only be issued
12 to a natural person who held a shrimp trawl-Puget Sound fishery license
13 during the previous licensing year, except upon the death of the
14 licensee the license shall be treated as analogous to personal property
15 for purposes of inheritance and intestacy.

16 (3) No more than one shrimp trawl-Puget Sound fishery license may
17 be owned by a licensee.

18 (4) Through December 31, 2001, shrimp trawl-Puget Sound fishery
19 licenses are nontransferable, except upon death of the licensee.
20 Beginning January 1, 2002, shrimp trawl-Puget Sound licenses are
21 transferable.

22 (5) Through December 31, 2001, a shrimp trawl-Puget Sound licensee
23 may designate any natural person as the alternate operator for the
24 license. Beginning January 1, 2002, a shrimp trawl-Puget Sound
25 licensee may designate only an immediate family member, as defined in
26 RCW 77.12.047, as the alternate operator. A licensee with a bona fide
27 medical emergency may designate a person other than an immediate family
28 member as the alternate operator for a period not to exceed two years,
29 provided the licensee documents the medical emergency with letters from
30 two medical doctors describing the illness or condition that prevents
31 the immediate family member from participating in the fishery. The
32 two-year period may be extended by the director upon recommendation of
33 a ~~((department-appointed))~~ director-appointed Puget Sound shrimp
34 advisory board. If the licensee has no immediate family member who is
35 capable of operating the license, the licensee may make a request to
36 the Puget Sound shrimp advisory board to designate an alternate
37 operator who is not an immediate family member, and upon recommendation

1 of the Puget Sound shrimp advisory board, the director may allow
2 designation of an alternate operator who is not an immediate family
3 member.

4 **Sec. 87.** RCW 77.70.430 and 2006 c 143 s 1 are each amended to read
5 as follows:

6 (1) In order to administer a Puget Sound crab pot buoy tag program,
7 the ((department)) director may charge a fee to holders of a Dungeness
8 crab--Puget Sound fishery license to reimburse the department for the
9 production of Puget Sound crab pot buoy tags and the administration of
10 a Puget Sound crab pot buoy tag program.

11 (2) In order to administer a Washington coastal Dungeness crab pot
12 buoy tag program, the ((department)) director may charge a fee to
13 holders of a Dungeness crab--coastal or a Dungeness crab coastal class
14 B fishery license and to holders of out-of-state licenses who are
15 issued a pot certificate by the ((department)) director to reimburse
16 the department for the production of Washington coastal crab pot buoy
17 tags and the administration of a Washington coastal crab pot buoy tag
18 program.

19 (3) The ((department)) director shall annually review the costs of
20 crab pot buoy tag production under this section with the goal of
21 minimizing the per tag production costs. Any savings in production
22 costs shall be passed on to the fishers required to purchase crab pot
23 buoy tags under this section in the form of a lower tag fee.

24 **Sec. 88.** RCW 77.70.450 and 2003 c 174 s 1 are each amended to read
25 as follows:

26 The commercial fisheries buyback account is created in the custody
27 of the state treasurer. All receipts from money collected by the
28 ((commission)) director under RCW 77.70.460, moneys appropriated for
29 the purposes of this section, and other gifts, grants, or donations
30 specifically made to the fund must be deposited into the account.
31 Expenditures from the account may be used only for the purpose of
32 repaying moneys advanced by the federal government under a groundfish
33 fleet reduction program established by the federal government, or for
34 other fleet reduction efforts, commercial fishing license buyback
35 programs, or similar programs designed to reduce the harvest capacity
36 in a commercial fishery. Only the director ((of the department)) or

1 the director's designee may authorize expenditures from the account.
2 The account is subject to allotment procedures under chapter 43.88 RCW,
3 but an appropriation is not required for expenditures.

4 **Sec. 89.** RCW 77.70.460 and 2003 c 174 s 2 are each amended to read
5 as follows:

6 (1) The (~~commission~~) director shall collect a fee upon all
7 deliveries of fish or shellfish from persons holding: (a) A federal
8 pacific groundfish limited entry permit with a trawl endorsement; (b)
9 an ocean pink shrimp delivery license issued under RCW 77.65.390; (c)
10 a Dungeness crab--coastal fishery license issued under RCW 77.70.280;
11 (d) a food fish delivery license issued under RCW 77.65.200; or (e) a
12 shrimp trawl license under RCW 77.65.220, to repay the federal
13 government for moneys advanced by the federal government under a
14 groundfish fleet reduction program established by the federal
15 government.

16 (2) The (~~commission~~) director shall adopt a fee schedule by rule
17 for the collection of the fee required by subsection (1) of this
18 section. The fee schedule adopted shall limit the total amount of
19 moneys collected through the fee to the minimum amount necessary to
20 repay the moneys advanced by the federal government, but be sufficient
21 to repay the debt obligation of each fishery. The fee charged to the
22 holders of a Dungeness crab--coastal fishery license may not exceed two
23 percent of the total ex-vessel value of annual landings, and the fee
24 charged to all other eligible license holders may not exceed five
25 percent of the total ex-vessel value of annual landings. The
26 (~~commission~~) director may adjust the fee schedule as necessary to
27 ensure that the funds collected are adequate to repay the debt
28 obligation of each fishery.

29 (3) The (~~commission~~) director shall deposit moneys collected
30 under this section in the commercial fisheries buyback account created
31 in RCW 77.70.450.

32 **Sec. 90.** RCW 77.70.470 and 2003 c 174 s 3 are each amended to read
33 as follows:

34 The (~~commission~~) director may not assess the fee specified under
35 RCW 77.70.460 until after the federal government creates a groundfish
36 fleet reduction program.

1 **Sec. 91.** RCW 77.75.020 and 2000 c 107 s 86 are each amended to
2 read as follows:

3 The (~~commission~~) director may give to the state of Oregon such
4 consent and approbation of the state of Washington as is necessary
5 under the compact set out in RCW 77.75.010. For the purposes of RCW
6 77.75.010, the states of Washington and Oregon have concurrent
7 jurisdiction in the concurrent waters of the Columbia river.

8 **Sec. 92.** RCW 77.75.040 and 1995 1st sp.s. c 2 s 20 are each
9 amended to read as follows:

10 (~~A member selected by or a designee of the fish and wildlife~~
11 ~~commission~~) The director or the director's designee, ex officio, and
12 two appointees of the governor representing the fishing industry shall
13 act as the representatives of this state on the Pacific Marine
14 Fisheries Commission. The appointees of the governor are subject to
15 confirmation by the state senate.

16 **Sec. 93.** RCW 77.75.140 and 1995 1st sp.s. c 2 s 21 are each
17 amended to read as follows:

18 The (~~commission~~) director may adopt and enforce the provisions of
19 the treaty between the government of the United States and the
20 government of Canada concerning Pacific salmon, treaty document number
21 99-2, entered into force March 18, 1985, at Quebec City, Canada, and
22 the regulations of the commission adopted under authority of the
23 treaty.

24 **Sec. 94.** RCW 77.85.220 and 2003 c 391 s 4 are each amended to read
25 as follows:

26 (1) If a limiting factors analysis has been conducted under this
27 chapter for a specific geographic area and that analysis shows
28 insufficient intertidal salmon habitat, the (~~department of fish and~~
29 ~~wildlife~~) director and the county legislative authorities of the
30 affected counties may jointly initiate a salmon intertidal habitat
31 restoration planning process to develop a plan that addresses the
32 intertidal habitat goals contained in the limiting factors analysis.
33 The (~~fish and wildlife commission~~) director and the county
34 legislative authorities of the geographic area shall jointly appoint a
35 task force composed of the following members:

1 (a) One representative of the (~~fish and wildlife commission~~)
2 department, appointed by the (~~chair of the commission~~) director;

3 (b) Two representatives of the agricultural industry familiar with
4 agricultural issues in the geographic area, one appointed by an
5 organization active in the geographic area and one appointed by a
6 statewide organization representing the industry;

7 (c) Two representatives of environmental interest organizations
8 with familiarity and expertise of salmon habitat, one appointed by an
9 organization in the geographic area and one appointed by a statewide
10 organization representing environmental interests;

11 (d) One representative of a diking and drainage district, appointed
12 by the individual districts in the geographic area or by an association
13 of diking and drainage districts;

14 (e) One representative of the lead entity for salmon recovery in
15 the geographic area, appointed by the lead entity;

16 (f) One representative of each county in the geographic area,
17 appointed by the respective county legislative authorities; and

18 (g) One representative from the office of the governor.

19 (2) Representatives of the United States environmental protection
20 agency, the United States natural resources conservation service,
21 federal fishery agencies, as appointed by their regional director, and
22 tribes with interests in the geographic area shall be invited and
23 encouraged to participate as members of the task force.

24 (3) The task force shall elect a chair and adopt rules for
25 conducting the business of the task force. Staff support for the task
26 force shall be provided by the Washington state conservation
27 commission.

28 (4) The task force shall:

29 (a) Review and analyze the limiting factors analysis for the
30 geographic area;

31 (b) Initiate and oversee intertidal salmon habitat studies for
32 enhancement of the intertidal area as provided in RCW 77.85.230;

33 (c) Review and analyze the completed assessments listed in RCW
34 77.85.230;

35 (d) Develop and draft an overall plan that addresses identified
36 intertidal salmon habitat goals that has public support; and

37 (e) Identify appropriate demonstration projects and early

1 implementation projects that are of high priority and should commence
2 immediately within the geographic area.

3 (5) The task force may request briefings as needed on legal issues
4 that may need to be considered when developing or implementing various
5 plan options.

6 (6) Members of the task force shall be reimbursed by the
7 conservation commission for travel expenses as provided in RCW
8 43.03.050 and 43.03.060.

9 (7) The task force shall provide annual reports that provide an
10 update on its activities to the (~~fish and wildlife commission~~)
11 director, to the involved county legislative authorities, and to the
12 lead entity formed under this chapter.

13 **Sec. 95.** RCW 77.85.230 and 2003 c 391 s 5 are each amended to read
14 as follows:

15 (1) In consultation with the task force created in RCW 77.85.220,
16 the conservation commission may contract with universities, private
17 consultants, nonprofit groups, or other entities to assist it in
18 developing a plan incorporating the following elements:

19 (a) An inventory of existing tide gates located on streams in the
20 county. The inventory shall include location, age, type, and
21 maintenance history of the tide gates and other factors as determined
22 by the task force created in RCW 77.85.220 in consultation with the
23 county and diking and drainage districts;

24 (b) An assessment of the role of tide gates located on streams in
25 the county; the role of intertidal fish habitat for various life stages
26 of salmon; the quantity and characterization of intertidal fish habitat
27 currently accessible to fish; the quantity and characterization of the
28 present intertidal fish habitat created at the time the dikes and
29 outlets were constructed; the quantity of potential intertidal fish
30 habitat on public lands and alternatives to enhance this habitat; the
31 effects of saltwater intrusion on agricultural land, including the
32 effects of backfeeding of saltwater through the underground drainage
33 system; the role of tide gates in drainage systems, including relieving
34 excess water from saturated soil and providing reservoir functions
35 between tides; the effect of saturated soils on production of crops;
36 the characteristics of properly functioning intertidal fish habitat; a
37 map of agricultural lands designated by the county as having long-term

1 commercial significance and the effect of that designation; and the
2 economic impacts to existing land uses for various alternatives for
3 tide gate alteration; and

4 (c) A long-term plan for intertidal salmon habitat enhancement to
5 meet the goals of salmon recovery and protection of agricultural lands.
6 The proposal shall consider all other means to achieve salmon recovery
7 without converting farmland. The proposal shall include methods to
8 increase fish passage and otherwise enhance intertidal habitat on
9 public lands pursuant to subsection (2) of this section, voluntary
10 methods to increase fish passage on private lands, a priority list of
11 intertidal salmon enhancement projects, and recommendations for funding
12 of high priority projects. The task force created in RCW 77.85.220
13 also may propose pilot projects that will be designed to test and
14 measure the success of various proposed strategies.

15 (2) In conjunction with other public landowners and the task force
16 created in RCW 77.85.220, the ((department)) director shall develop an
17 initial salmon intertidal habitat enhancement plan for public lands in
18 the county. The initial plan shall include a list of public properties
19 in the intertidal zone that could be enhanced for salmon, a description
20 of how those properties could be altered to support salmon, a
21 description of costs and sources of funds to enhance the property, and
22 a strategy and schedule for prioritizing the enhancement of public
23 lands for intertidal salmon habitat. This initial plan shall be
24 submitted to the task force created in RCW 77.85.220 at least six
25 months before the deadline established in subsection (3) of this
26 section.

27 (3) The final intertidal salmon enhancement plan shall be completed
28 within two years from the date the task force created in RCW 77.85.220
29 is formed and funding has been secured. A final plan shall be
30 submitted by the task force created in RCW 77.85.220 to the lead entity
31 for the geographic area established under this chapter.

32 **Sec. 96.** RCW 77.95.010 and 1995 1st sp.s. c 2 s 33 are each
33 amended to read as follows:

34 Currently, many of the salmon stocks of Washington state are
35 critically reduced from their sustainable level. The best interests of
36 all fishing groups and the citizens as a whole are served by a stable
37 and productive salmon resource. Immediate action is needed to reverse

1 the severe decline of the resource and to (~~insure~~) ensure its very
2 survival. The legislature finds a state of emergency exists and that
3 immediate action is required to restore its fishery.

4 Disagreement and strife have dominated the salmon fisheries for
5 many years. Conflicts among the various fishing interests have only
6 served to erode the resource. It is time for the state of Washington
7 to make a major commitment to increasing productivity of the resource
8 and to move forward with an effective rehabilitation and enhancement
9 program. The (~~commission~~) director is directed to dedicate (~~its~~)
10 the director's efforts and the efforts of the department to seek
11 resolution to the many conflicts that involve the resource.

12 Success of the enhancement program can only occur if projects
13 efficiently produce salmon or restore habitat. The expectation of the
14 program is to optimize the efficient use of funding on projects that
15 will increase artificially and naturally produced salmon, restore and
16 improve habitat, or identify ways to increase the survival of salmon.
17 The full utilization of state resources and cooperative efforts with
18 interested groups are essential to the success of the program.

19 **Sec. 97.** RCW 77.95.020 and 1995 1st sp.s. c 2 s 34 are each
20 amended to read as follows:

21 (1) The (~~commission~~) director shall develop long-term regional
22 policy statements regarding the salmon fishery resources before
23 December 1, 1985. The (~~commission~~) director shall consider the
24 following in formulating and updating regional policy statements:

- 25 (a) Existing resource needs;
- 26 (b) Potential for creation of new resources;
- 27 (c) Successful existing programs, both within and outside the
28 state;
- 29 (d) Balanced utilization of natural and hatchery production;
- 30 (e) Desires of the fishing interest;
- 31 (f) Need for additional data or research;
- 32 (g) Federal court orders; and
- 33 (h) Salmon advisory council recommendations.

34 (2) The (~~commission~~) director shall review and update each policy
35 statement at least once each year.

1 **Sec. 98.** RCW 77.95.030 and 1995 1st sp.s. c 2 s 35 are each
2 amended to read as follows:

3 (1) The ((~~commission~~)) director shall develop a detailed salmon
4 enhancement plan with proposed enhancement projects. The plan and the
5 regional policy statements shall be submitted to the secretary of the
6 senate and chief clerk of the house of representatives for legislative
7 distribution by June 30, 1986. The enhancement plan and regional
8 policy statements shall be provided by June 30, 1986, to the natural
9 resources committees of the house of representatives and the senate.
10 The ((~~commission~~)) director shall provide a maximum opportunity for the
11 public to participate in the development of the salmon enhancement
12 plan. To ((~~insure~~)) ensure full participation by all interested
13 parties, the ((~~commission~~)) director shall solicit and consider
14 enhancement project proposals from Indian tribes, sports ((~~fishermen~~))
15 fishers, commercial ((~~fishermen~~)) fishers, private aquaculturists, and
16 other interested groups or individuals for potential inclusion in the
17 salmon enhancement plan. Joint or cooperative enhancement projects
18 shall be considered for funding.

19 (2) The following criteria shall be used by the ((~~commission~~))
20 director in formulating the project proposals:

- 21 (a) Compatibility with the long-term policy statement;
- 22 (b) Benefit/cost analysis;
- 23 (c) Needs of all fishing interests;
- 24 (d) Compatibility with regional plans, including harvest management
25 plans;
- 26 (e) Likely increase in resource productivity;
- 27 (f) Direct applicability of any research;
- 28 (g) Salmon advisory council recommendations;
- 29 (h) Compatibility with federal court orders;
- 30 (i) Coordination with the salmon and steelhead advisory commission
31 program;
- 32 (j) Economic impact to the state;
- 33 (k) Technical feasibility; and
- 34 (l) Preservation of native salmon runs.

35 (3) The ((~~commission~~)) director shall not approve projects that
36 serve as replacement funding for projects that exist prior to May 21,
37 1985, unless no other sources of funds are available.

1 (4) The ((~~commission~~)) director shall prioritize various projects
2 and establish a recommended implementation time schedule.

3 **Sec. 99.** RCW 77.95.040 and 1995 1st sp.s. c 2 s 36 are each
4 amended to read as follows:

5 Upon approval by the legislature of funds for its implementation,
6 the ((~~commission~~)) director shall monitor the progress of projects
7 detailed in the salmon enhancement plan.

8 The ((~~commission~~)) director shall be responsible for establishing
9 criteria which shall be used to measure the success of each project in
10 the salmon enhancement plan.

11 **Sec. 100.** RCW 77.95.060 and 1995 1st sp.s. c 2 s 38 are each
12 amended to read as follows:

13 The legislature finds that it is in the best interest of the salmon
14 resource of the state to encourage the development of regional
15 fisheries enhancement groups. The accomplishments of one existing
16 group, the Grays Harbor fisheries enhancement task force, have been
17 widely recognized as being exemplary. The legislature recognizes the
18 potential benefits to the state that would occur if each region of the
19 state had a similar group of dedicated citizens working to enhance the
20 salmon resource.

21 The legislature authorizes the formation of regional fisheries
22 enhancement groups. These groups shall be eligible for state financial
23 support and shall be actively supported by the ((~~commission~~ and))
24 director and the department. The regional groups shall be operated on
25 a strictly nonprofit basis, and shall seek to maximize the efforts of
26 volunteer and private donations to improve the salmon resource for all
27 citizens of the state.

28 **Sec. 101.** RCW 77.95.090 and 2000 c 107 s 106 are each amended to
29 read as follows:

30 The dedicated regional fisheries enhancement group account is
31 created in the custody of the state treasurer. Only the ((~~commission~~))
32 director or the ((~~commission's~~)) director's designee may authorize
33 expenditures from the account. The account is subject to allotment
34 procedures under chapter 43.88 RCW, but no appropriation is required
35 for expenditures.

1 A portion of each recreational fishing license fee shall be used as
2 provided in RCW 77.32.440. A surcharge of one hundred dollars shall be
3 collected on each commercial salmon fishery license, each salmon
4 delivery license, and each salmon charter license sold in the state.
5 All receipts shall be placed in the regional fisheries enhancement
6 group account and shall be used exclusively for regional fisheries
7 enhancement group projects for the purposes of RCW 77.95.110. Funds
8 from the regional fisheries enhancement group account shall not serve
9 as replacement funding for department operated salmon projects that
10 exist on January 1, 1991.

11 All revenue from the (~~department's~~) director's sale of salmon
12 carcasses and eggs that return to group facilities shall be deposited
13 in the regional fisheries enhancement group account for use by the
14 regional fisheries enhancement group that produced the surplus. The
15 (~~commission~~) director shall adopt rules to implement this section
16 pursuant to chapter 34.05 RCW.

17 **Sec. 102.** RCW 77.95.100 and 2000 c 107 s 107 are each amended to
18 read as follows:

19 The (~~department~~) director may provide start-up funds to regional
20 fisheries enhancement groups for costs associated with any enhancement
21 project. The regional fisheries enhancement group advisory board and
22 the (~~commission~~) director shall develop guidelines for providing
23 funds to the regional fisheries enhancement groups.

24 **Sec. 103.** RCW 77.95.110 and 2000 c 107 s 108 are each amended to
25 read as follows:

26 (1) A regional fisheries enhancement group advisory board is
27 established to make recommendations to the (~~commission~~) director.
28 The members shall be appointed by the (~~commission~~) director and
29 consist of two commercial fishing representatives, two recreational
30 fishing representatives, and three at-large positions. At least two of
31 the advisory board members shall be members of a regional fisheries
32 enhancement group. Advisory board members shall serve three-year
33 terms. The advisory board membership shall include two members serving
34 ex officio to be nominated, one through the Northwest Indian fisheries
35 commission, and one through the Columbia river intertribal fish
36 commission. The chair of the regional fisheries enhancement group

1 advisory board shall be elected annually by members of the regional
2 fisheries enhancement group advisory board. The advisory board shall
3 meet at least quarterly. All meetings of the advisory board shall be
4 open to the public under the open public meetings act, chapter 42.30
5 RCW.

6 The ((~~department~~)) director shall invite the advisory board to
7 comment and provide input into all relevant policy initiatives,
8 including, but not limited to, wild stock, hatcheries, and habitat
9 restoration efforts.

10 (2) Members shall not be compensated but shall receive
11 reimbursement for travel expenses in accordance with RCW 43.03.050 and
12 43.03.060.

13 (3) The department may use account funds to provide agency
14 assistance to the groups, to provide professional, administrative, or
15 clerical services to the advisory board, or to implement the training
16 and technical assistance services plan as developed by the advisory
17 board pursuant to RCW 77.95.120. The level of account funds used by
18 the department shall be determined by the ((~~commission~~)) director after
19 review of recommendation by the regional fisheries enhancement group
20 advisory board and shall not exceed twenty percent of annual
21 contributions to the account.

22 **Sec. 104.** RCW 77.95.140 and 1995 1st sp.s. c 2 s 41 are each
23 amended to read as follows:

24 The ((~~commission~~)) director shall prepare a salmon recovery plan
25 for the Skagit river. The plan shall include strategies for employing
26 displaced timber workers to conduct salmon restoration and other tasks
27 identified in the plan. The plan shall incorporate the best available
28 technology in order to achieve maximum restoration of depressed salmon
29 stocks. The plan must encourage the restoration of natural spawning
30 areas and natural rearing of salmon but must not preclude the
31 development of an active hatchery program.

32 **Sec. 105.** RCW 77.95.200 and 1998 c 251 s 2 are each amended to
33 read as follows:

34 (1) The ((~~department~~)) director shall develop and implement a
35 program utilizing remote site incubators in Washington state. The
36 program shall identify sites in tributaries that are suitable for

1 reestablishing self-sustaining, locally adapted populations of coho,
2 chum, or chinook salmon. The initial selection of sites shall be
3 completed by July 1, 1999, and updated annually thereafter.

4 (2) The ((~~department~~)) director may only approve a remote site
5 incubator project if the department deems it is consistent with the
6 conservation of wild salmon and trout. The ((~~department~~)) director
7 shall only utilize appropriate salmonid eggs in remote site incubators,
8 and may acquire eggs by gift or purchase.

9 (3) The ((~~department~~)) director shall depend chiefly upon volunteer
10 efforts to implement the remote site incubator program through
11 volunteer cooperative projects and the regional fisheries enhancement
12 groups. The ((~~department~~)) director may prioritize remote site
13 incubator projects within regional enhancement areas.

14 (4) The ((~~department~~)) director may purchase remote site incubators
15 and may use agency employees to construct remote site incubators. The
16 director and the secretary of the department of corrections shall
17 jointly investigate the potential of producing remote site incubators
18 through the prison industries program of the department of corrections,
19 and shall jointly report their finding to the natural resources
20 committees of the house of representatives and the senate by December
21 1, 1999.

22 (5) The department shall investigate the use of the remote site
23 incubator technology for the production of warm water fish.

24 (6) The ((~~department~~)) director shall evaluate the initial results
25 of the program and report to the legislature by December 1, 2000.
26 Annual reports on the progress of the program shall be provided to the
27 fish and wildlife commission.

28 **Sec. 106.** RCW 77.95.210 and 2001 c 337 s 1 are each amended to
29 read as follows:

30 (1) Except as provided in subsection (2) of this section, the
31 ((~~department~~)) director may supply, at a reasonable charge, surplus
32 salmon eggs to a person for use in the cultivation of salmon. The
33 ((~~department~~)) director shall not intentionally create a surplus of
34 salmon to provide eggs for sale. The ((~~department~~)) director shall
35 only sell salmon eggs from stocks that are not suitable for salmon
36 population rehabilitation or enhancement in state waters in Washington

1 after the salmon harvest on surplus salmon has been first maximized by
2 both commercial and recreational fishers.

3 (2) The ((department)) director shall not destroy hatchery origin
4 salmon for the purposes of destroying viable eggs that would otherwise
5 be useful for propagation or salmon recovery purposes, as determined by
6 the department and Indian tribes with treaty fishing rights in a
7 collaborative manner, for replenishing fish runs. Eggs deemed surplus
8 by the state must be provided, in the following order of priority, to:

9 (a) Voluntary cooperative salmon culture programs under the
10 supervision of the department under chapter 77.100 RCW;

11 (b) Regional fisheries enhancement group salmon culture programs
12 under the supervision of the department under this chapter;

13 (c) Salmon culture programs requested by lead entities and approved
14 by the salmon funding recovery board under chapter 77.85 RCW;

15 (d) Hatcheries of federally approved tribes in Washington to whom
16 eggs are moved, not sold, under the interlocal cooperation act, chapter
17 39.34 RCW; and

18 (e) Governmental hatcheries in Washington, Oregon, and Idaho.

19 The order of priority established in this subsection for
20 distributing surplus eggs does not apply when there is a shortfall in
21 the supply of eggs.

22 (3) All sales, provisions, distributions, or transfers shall be
23 consistent with the ((department's)) director's egg transfer and
24 aquaculture disease control regulations as now existing or hereafter
25 amended. Prior to ((department)) director determination that eggs of
26 a salmon stock are surplus and available for sale, the department shall
27 assess the productivity of each watershed that is suitable for
28 receiving eggs.

29 **Sec. 107.** RCW 77.95.270 and 2001 c 337 s 2 are each amended to
30 read as follows:

31 Except as provided in RCW 77.95.210, the ((department)) director
32 may make available to private contractors salmon eggs in excess of
33 department hatchery needs for the purpose of contract rearing to
34 release the smolts into public waters. However, providing salmon eggs
35 as specified in RCW 77.95.210(2) has the highest priority. The
36 priority of providing eggs surplus after meeting the requirements of

1 RCW 77.95.210(2) to contract rearing is a higher priority than
2 providing eggs to aquaculture purposes that are not destined for
3 release into Washington public waters.

4 **Sec. 108.** RCW 77.95.300 and 1995 c 372 s 3 are each amended to
5 read as follows:

6 The ((department)) director shall adopt rules to control the mixed
7 stock chinook and coho fisheries of the state so as to sustain healthy
8 stocks of wild salmon, allow the maximum survival of wild salmon, allow
9 for spatially separated fisheries that target on hatchery stocks,
10 foster the best techniques for releasing wild chinook and coho salmon,
11 and contribute to the economic viability of the fishing businesses of
12 the state.

13 **Sec. 109.** RCW 77.95.310 and 1997 c 414 s 1 are each amended to
14 read as follows:

15 Beginning September 1, 1998, and each September 1st thereafter, the
16 ((department)) director shall submit a report to the appropriate
17 standing committees of the legislature identifying the total salmon and
18 steelhead harvest of the preceding season. This report shall include
19 the final commercial harvests and recreational harvests. At a minimum,
20 the report shall clearly identify:

21 (1) The total treaty tribal and nontribal harvests by species and
22 by management unit;

23 (2) Where and why the nontribal harvest does not meet the full
24 allocation allowed under *United States v. Washington*, 384 F. Supp. 312
25 (1974) (Boldt I) including a summary of the key policies within the
26 management plan that result in a less than full nontribal allocation;
27 and

28 (3) The location and quantity of salmon and steelhead harvested
29 under the wastage provisions of *United States v. Washington*, 384 F.
30 Supp. 312 (1974).

31 **Sec. 110.** RCW 77.100.040 and 1993 sp.s. c 2 s 51 are each amended
32 to read as follows:

33 The ((department)) director may authorize the sale of surplus
34 salmon eggs and carcasses by permitted cooperative projects for the
35 purposes of defraying the expenses of the cooperative project. In no

1 instance shall the ((~~department~~)) director allow a profit to be
2 realized through such sales. The ((~~department~~)) director shall adopt
3 rules to implement this section pursuant to chapter 34.05 RCW.

4 **Sec. 111.** RCW 77.105.010 and 2003 c 173 s 1 are each amended to
5 read as follows:

6 There is created within the department ((~~of fish and wildlife~~)) the
7 Puget Sound recreational salmon and marine fish enhancement program.
8 The ((~~department of fish and wildlife~~)) director shall identify a
9 coordinator for the program who shall act as spokesperson for the
10 program and shall:

11 (1) Coordinate the activities of the Puget Sound recreational
12 salmon and marine fish enhancement program, including the Lake
13 Washington salmon fishery; and

14 (2) Work within and outside of the department to achieve the goals
15 stated in this chapter, including coordinating with the Puget Sound
16 recreational fisheries enhancement oversight committee established in
17 RCW 77.105.160.

18 **Sec. 112.** RCW 77.105.020 and 1993 sp.s. c 2 s 84 are each amended
19 to read as follows:

20 The ((~~department~~)) director shall: Develop a short-term program of
21 hatchery-based salmon enhancement using freshwater pond sites for the
22 final rearing phase; solicit support from cooperative projects,
23 regional enhancement groups, and other supporting organizations;
24 conduct comprehensive research on resident and migratory salmon
25 production opportunities; and conduct research on marine bottomfish
26 production limitations and on methods for artificial propagation of
27 marine bottomfish.

28 Long-term responsibilities of the ((~~department~~)) director are to:
29 Fully implement enhancement efforts for Puget Sound and Hood Canal
30 resident salmon and marine bottomfish; identify opportunities to
31 reestablish salmon runs into areas where they no longer exist;
32 encourage naturally spawning salmon populations to develop to their
33 fullest extent; and fully utilize hatchery programs to improve
34 recreational fishing.

1 give the best opportunity to provide information that can be applied to
2 real-world recreational fishing needs.

3 **Sec. 117.** RCW 77.105.070 and 1994 c 264 s 47 are each amended to
4 read as follows:

5 The ((department)) director shall work with the department of
6 ecology and local government entities to streamline the siting process
7 for new enhancement projects. The ((department)) director is
8 encouraged to work with the legislature to develop statutory changes
9 that enable expeditious processing and granting of permits for fish
10 enhancement projects.

11 **Sec. 118.** RCW 77.105.090 and 1993 sp.s. c 2 s 91 are each amended
12 to read as follows:

13 The ((department)) director shall increase efforts to document the
14 effects of bird predators, harbor seals, sea lions, and predatory fish
15 upon the salmon and marine fish resource. Every opportunity shall be
16 explored to convince the federal government to amend the marine mammal
17 protection act to allow for balanced management of predators, as well
18 as to work with the United States fish and wildlife service to achieve
19 workable control measures for predatory birds.

20 **Sec. 119.** RCW 77.105.130 and 1993 sp.s. c 2 s 95 are each amended
21 to read as follows:

22 The ((department)) director shall contract with private
23 consultants, aquatic farms, or construction firms, where appropriate,
24 to achieve the highest benefit-to-cost ratio for recreational fishing
25 projects.

26 **Sec. 120.** RCW 77.115.010 and 2000 c 107 s 122 are each amended to
27 read as follows:

28 (1) The director of agriculture and the director shall jointly
29 develop a program of disease inspection and control for aquatic farmers
30 as defined in RCW 15.85.020. The program shall be administered by the
31 department under rules established under this section. The purpose of
32 the program is to protect the aquaculture industry and wildstock
33 fisheries from a loss of productivity due to aquatic diseases or

1 maladies. As used in this section "diseases" means, in addition to its
2 ordinary meaning, infestations of parasites or pests. The disease
3 program may include, but is not limited to, the following elements:

4 (a) Disease diagnosis;

5 (b) Import and transfer requirements;

6 (c) Provision for certification of stocks;

7 (d) Classification of diseases by severity;

8 (e) Provision for treatment of selected high-risk diseases;

9 (f) Provision for containment and eradication of high-risk
10 diseases;

11 (g) Provision for destruction of diseased cultured aquatic
12 products;

13 (h) Provision for quarantine of diseased cultured aquatic products;

14 (i) Provision for coordination with state and federal agencies;

15 (j) Provision for development of preventative or control measures;

16 (k) Provision for cooperative consultation service to aquatic
17 farmers; and

18 (l) Provision for disease history records.

19 (2) The (~~commission~~) director shall adopt rules implementing this
20 section. However, such rules shall have the prior approval of the
21 director of agriculture and shall provide therein that the director of
22 agriculture has provided such approval. The director of agriculture or
23 the director's designee shall attend the rule-making hearings conducted
24 under chapter 34.05 RCW and shall assist in conducting those hearings.
25 The authorities granted the department by these rules and by RCW
26 77.12.047 (1)(g) and (2)(g), 77.60.060, 77.60.080, 77.65.210,
27 (~~77.115.020~~) 77.115.030, and 77.115.040 constitute the only
28 authorities of the department to regulate private sector cultured
29 aquatic products and aquatic farmers as defined in RCW 15.85.020.
30 Except as provided in subsection (3) of this section, no action may be
31 taken against any person to enforce these rules unless the
32 (~~department~~) director has first provided the person an opportunity
33 for a hearing. In such a case, if the hearing is requested, no
34 enforcement action may be taken before the conclusion of that hearing.

35 (3) The rules adopted under this section shall specify the
36 emergency enforcement actions that may be taken by the department, and
37 the circumstances under which they may be taken, without first
38 providing the affected party with an opportunity for a hearing.

1 Neither the provisions of this subsection nor the provisions of
2 subsection (2) of this section shall preclude the department from
3 requesting the initiation of criminal proceedings for violations of the
4 disease inspection and control rules.

5 (4) A person shall not violate the rules adopted under subsection
6 (2) or (3) of this section or violate RCW 77.115.040.

7 (5) In administering the program established under this section,
8 the ((department)) director shall use the services of a pathologist
9 licensed to practice veterinary medicine.

10 (6) The director in administering the program shall not place
11 constraints on or take enforcement actions in respect to the
12 aquaculture industry that are more rigorous than those placed on the
13 department or other fish-rearing entities.

14 **Sec. 121.** RCW 77.120.030 and 2004 c 227 s 3 are each amended to
15 read as follows:

16 The owner or operator in charge of any vessel covered by this
17 chapter is required to ensure that the vessel under their ownership or
18 control does not discharge ballast water into the waters of the state
19 except as authorized by this section.

20 (1) Discharge into waters of the state is authorized if the vessel
21 has conducted an open sea exchange of ballast water. A vessel is
22 exempt from this requirement if the vessel's master reasonably
23 determines that such a ballast water exchange operation will threaten
24 the safety of the vessel or the vessel's crew, or is not feasible due
25 to vessel design limitations or equipment failure. If a vessel relies
26 on this exemption, then it may discharge ballast water into waters of
27 the state, subject to any requirements of treatment under subsection
28 (2) of this section and subject to RCW 77.120.040.

29 (2) After July 1, 2007, discharge of ballast water into waters of
30 the state is authorized only if there has been an open sea exchange or
31 if the vessel has treated its ballast water to meet standards set by
32 the ((department)) director consistent with applicable state and
33 federal laws. When weather or extraordinary circumstances make access
34 to treatment unsafe to the vessel or crew, the master of a vessel may
35 delay compliance with any treatment required under this subsection
36 until it is safe to complete the treatment.

1 (3) Masters, owners, operators, or persons-in-charge shall submit
2 to the department an interim ballast water management report by July 1,
3 2006, in the form and manner prescribed by the ((department)) director.
4 The report shall describe actions needed to implement the ballast water
5 requirements in subsection (2) of this section, including treatment
6 methods applicable to the class of the vessel. Reports may include a
7 statement that there are no treatment methods applicable to the vessel
8 for which the report is being submitted.

9 (4) The ballast water work group created in section 1, chapter 282,
10 Laws of 2002 shall develop recommendations for the interim ballast
11 water management report. The recommendations must include, but are not
12 limited to:

13 (a) Actions that the vessel owner or operator will take to
14 implement the ballast water requirements in subsection (2) of this
15 section, including treatment methods applicable to the class of the
16 vessel;

17 (b) Necessary plan elements when there are not treatment methods
18 applicable to the vessel for which the report is being submitted, or
19 which would meet the requirements of this chapter; and

20 (c) The method, form, and content of reporting to be used for such
21 reports.

22 (5) For treatment technologies requiring shipyard modification that
23 cannot reasonably be performed prior to July 1, 2007, the
24 ((department)) director shall provide the vessel owner or operator with
25 an extension to the first scheduled drydock or shipyard period
26 following July 1, 2007.

27 (6) The ((department)) director shall make every effort to align
28 ballast water standards with adopted international and federal
29 standards while ensuring that the goals of this chapter are met.

30 (7) The requirements of this section do not apply to a vessel
31 discharging ballast water or sediments that originated solely within
32 the waters of Washington state, the Columbia river system, or the
33 internal waters of British Columbia south of latitude fifty degrees
34 north, including the waters of the Straits of Georgia and Juan de Fuca.

35 (8) Open sea exchange is an exchange that occurs fifty or more
36 nautical miles offshore. If the United States coast guard requires a
37 vessel to conduct an exchange further offshore, then that distance is
38 the required distance for purposes of compliance with this chapter.

1 **Sec. 122.** RCW 77.120.040 and 2002 c 282 s 3 are each amended to
2 read as follows:

3 The owner or operator in charge of any vessel covered by this
4 chapter is required to ensure that the vessel under their ownership or
5 control complies with the reporting and sampling requirements of this
6 section.

7 (1) Vessels covered by this chapter must report ballast water
8 management information to the department using ballast water management
9 forms that are acceptable to the United States coast guard. The
10 frequency, manner, and form of such reporting shall be established by
11 the ((department)) director by rule. Any vessel may rely on a
12 recognized marine trade association to collect and forward this
13 information to the department.

14 (2) In order to monitor the effectiveness of national and
15 international efforts to prevent the introduction of nonindigenous
16 species, all vessels covered by this chapter must submit nonindigenous
17 species ballast water monitoring data. The monitoring, sampling,
18 testing protocols, and methods of identifying nonindigenous species in
19 ballast water shall be determined by the ((department)) director by
20 rule. A vessel covered by this chapter may contract with a recognized
21 marine trade association to randomly sample vessels within that
22 association's membership, and provide data to the department.

23 (3) Vessels that do not belong to a recognized marine trade
24 association must submit individual ballast tank sample data to the
25 department for each voyage.

26 (4) All data submitted to the department under subsection (2) of
27 this section shall be consistent with sampling and testing protocols as
28 adopted by the ((department)) director by rule.

29 (5) The ((department)) director shall adopt rules to implement this
30 section. The rules and recommendations shall be developed in
31 consultation with advisors from regulated industries and the
32 potentially affected parties, including but not limited to shipping
33 interests, ports, shellfish growers, fisheries, environmental
34 interests, interested citizens who have knowledge of the issues, and
35 appropriate governmental representatives including the United States
36 coast guard. In recognition of the need to have a coordinated response
37 to ballast water management for the Columbia river system, the

1 ((department)) director must consider rules adopted by the state of
2 Oregon when adopting rules under this section for ballast water
3 management in the navigable waters of the Columbia river system.

4 (a) The ((department)) director shall set standards for the
5 discharge of treated ballast water into the waters of the state. The
6 rules are intended to ensure that the discharge of treated ballast
7 water poses minimal risk of introducing nonindigenous species. In
8 developing this standard, the ((department)) director shall consider
9 the extent to which the requirement is technologically and practically
10 feasible. Where practical and appropriate, the standards shall be
11 compatible with standards set by the United States coast guard and
12 shall be developed in consultation with federal and state agencies to
13 ensure consistency with the federal clean water act, 33 U.S.C. Sec.
14 1251-1387.

15 (b) The ((department)) director shall adopt ballast water sampling
16 and testing protocols for monitoring the biological components of
17 ballast water that may be discharged into the waters of the state under
18 this chapter. Monitoring data is intended to assist the department in
19 evaluating the risk of new, nonindigenous species introductions from
20 the discharge of ballast water, and to evaluate the accuracy of ballast
21 water exchange practices. The sampling and testing protocols must
22 consist of cost-effective, scientifically verifiable methods that, to
23 the extent practical and without compromising the purposes of this
24 chapter, utilize easily measured indices, such as salinity, or check
25 for species that indicate the potential presence of nonindigenous
26 species or pathogenic species. The ((department)) director shall
27 specify appropriate quality assurance and quality control for the
28 sampling and testing protocols.

29 **Sec. 123.** RCW 77.120.050 and 2000 c 108 s 6 are each amended to
30 read as follows:

31 The shipping vessel industry, the public ports, and the
32 ((department)) director shall promote the creation of a pilot project
33 to establish a private sector ballast water treatment operation that is
34 capable of servicing vessels at all Washington ports. Federal and
35 state agencies and private industries shall be invited to participate.
36 The project will develop equipment or methods to treat ballast water
37 and establish operational methods that do not increase the cost of

1 ballast water treatment at smaller ports. The legislature intends that
2 the cost of treatment required by this chapter is substantially
3 equivalent among large and small ports in Washington.

4 **Sec. 124.** RCW 77.120.060 and 2002 c 282 s 4 are each amended to
5 read as follows:

6 The legislature recognizes that international and national laws
7 relating to this chapter are changing and that state law must adapt
8 accordingly. The ((department)) director shall submit to the
9 legislature, and make available to the public, a report that summarizes
10 the results of this chapter and makes recommendations for improvement
11 to this chapter on or before December 1, 2001, and a second report on
12 or before December 1, 2004. The 2004 report shall describe how the
13 costs of treatment required as of July 1, 2004, will be substantially
14 equivalent among ports where treatment is required. The 2004 report
15 must describe how the states of Washington and Oregon are coordinating
16 their efforts for ballast water management in the Columbia river
17 system. The ((department)) director shall strive to fund the
18 provisions of this chapter through existing resources, cooperative
19 agreements with the maritime industry, and federal funding sources.

20 **Sec. 125.** RCW 77.120.090 and 2002 c 282 s 5 are each amended to
21 read as follows:

22 The ((department)) director, working with the United States coast
23 guard and the marine exchanges, will work cooperatively to improve the
24 ballast water information system and make improvements no later than
25 October 1, 2002. The cooperative effort will strive to obtain ballast
26 water reports for the United States coast guard under contract. The
27 reports may be used for ballast water management information under this
28 chapter and be forwarded to the United States coast guard for its
29 management purposes. Prior to July 1, 2002, the ((department))
30 director must take steps to reduce or eliminate the costs of reporting.

31 **Sec. 126.** RCW 77.125.040 and 2001 c 86 s 4 are each amended to
32 read as follows:

33 Rules to implement this chapter shall be adopted by the director no
34 sooner than thirty days following the end of the 2002 regular

1 legislative session. The director shall provide a written report to
2 the appropriate legislative committees by January 1, 2003, on the
3 progress of the program.

4 **Sec. 127.** RCW 15.85.010 and 1994 c 264 s 4 are each amended to
5 read as follows:

6 The legislature declares that aquatic farming provides a consistent
7 source of quality food, offers opportunities of new jobs, increased
8 farm income stability, and improves balance of trade.

9 The legislature finds that many areas of the state of Washington
10 are scientifically and biologically suitable for aquaculture
11 development, and therefore the legislature encourages promotion of
12 aquacultural activities, programs, and development with the same status
13 as other agricultural activities, programs, and development within the
14 state.

15 The legislature finds that aquaculture should be considered a
16 branch of the agricultural industry of the state for purposes of any
17 laws that apply to or provide for the advancement, benefit, or
18 protection of the agriculture industry within the state.

19 The legislature further finds that in order to ensure the maximum
20 yield and quality of cultured aquatic products, the ((department))
21 director of fish and wildlife should provide diagnostic services that
22 are workable and proven remedies to aquaculture disease problems.

23 It is therefore the policy of this state to encourage the
24 development and expansion of aquaculture within the state. It is also
25 the policy of this state to protect wildstock fisheries by providing an
26 effective disease inspection and control program and prohibiting the
27 release of salmon or steelhead trout by the private sector into the
28 public waters of the state and the subsequent recapture of such species
29 as in the practice commonly known as ocean ranching.

30 **Sec. 128.** RCW 16.36.005 and 2003 c 39 s 9 are each amended to read
31 as follows:

32 As used in this chapter:

33 "Animal" means all members of the animal kingdom except humans,
34 fish, and insects. However, "animal" does not mean noncaptive wildlife
35 as defined in RCW 77.08.010(16), except as used in RCW 16.36.050(1) and
36 16.36.080 (1), (2), (3), and (5).

1 "Animal reproductive product" means sperm, ova, fertilized ova, and
2 embryos from animals.

3 "Farm-raised fish" means fish raised by aquaculture as defined in
4 RCW 15.85.020. Farm-raised fish are considered to be a part of animal
5 agriculture; however, disease inspection, prevention, and control
6 programs and related activities for farm-raised fish are administered
7 by the ((department)) director of fish and wildlife under chapter
8 77.115 RCW.

9 "Communicable disease" means a disease due to a specific infectious
10 agent or its toxic products transmitted from an infected person,
11 animal, or inanimate reservoir to a susceptible host, either directly
12 or indirectly through an intermediate plant or animal host, vector, or
13 the environment.

14 "Contagious disease" means a communicable disease that is capable
15 of being easily transmitted from one animal to another animal or a
16 human.

17 "Director" means the director of agriculture of the state of
18 Washington or his or her authorized representative.

19 "Department" means the department of agriculture of the state of
20 Washington.

21 "Deputized state veterinarian" means a Washington state licensed
22 and accredited veterinarian appointed and compensated by the director
23 according to state law and department policies.

24 "Garbage" means the solid animal and vegetable waste and offal
25 together with the natural moisture content resulting from the handling,
26 preparation, or consumption of foods in houses, restaurants, hotels,
27 kitchens, markets, meat shops, packing houses and similar
28 establishments or any other food waste containing meat or meat
29 products.

30 "Herd or flock plan" means a written management agreement between
31 the owner of a herd or flock and the state veterinarian, with possible
32 input from a private accredited veterinarian designated by the owner
33 and the area veterinarian-in-charge of the United States department of
34 agriculture, animal and plant health inspection service, veterinary
35 services in which each participant agrees to undertake actions
36 specified in the herd or flock plan to control the spread of
37 infectious, contagious, or communicable disease within and from an

1 infected herd or flock and to work toward eradicating the disease in
2 the infected herd or flock.

3 "Hold order" means an order by the director to the owner or agent
4 of the owner of animals or animal reproductive products which restricts
5 the animals or products to a designated holding location pending an
6 investigation by the director of the disease, disease exposure, well-
7 being, movement, or import status of the animals or animal reproductive
8 products.

9 "Infectious agent" means an organism including viruses, rickettsia,
10 bacteria, fungi, protozoa, helminthes, or prions that is capable of
11 producing infection or infectious disease.

12 "Infectious disease" means a clinical disease of humans or animals
13 resulting from an infection with an infectious agent that may or may
14 not be communicable or contagious.

15 "Livestock" means horses, mules, donkeys, cattle, bison, sheep,
16 goats, swine, rabbits, llamas, alpacas, ratites, poultry, waterfowl,
17 game birds, and other species so designated by statute. "Livestock"
18 does not mean free ranging wildlife as defined in Title 77 RCW.

19 "Person" means a person, persons, firm, or corporation.

20 "Quarantine" means the placing and restraining of any animal or its
21 reproductive products by the owner or agent of the owner within a
22 certain described and designated enclosure or area within this state,
23 or the restraining of any animal or its reproductive products from
24 entering this state, as may be directed in an order by the director.

25 "Reportable disease" means a disease designated by rule by the
26 director as reportable to the department by veterinarians and others
27 made responsible to report by statute.

28 "Veterinary biologic" means any virus, serum, toxin, and analogous
29 product of natural or synthetic origin, or product prepared from any
30 type of genetic engineering, such as diagnostics, antitoxins, vaccines,
31 live microorganisms, killed microorganisms, and the antigenic or
32 immunizing components intended for use in the diagnosis, treatment, or
33 prevention of diseases in animals.

34 **Sec. 129.** RCW 43.17.020 and 2006 c 265 s 112 are each amended to
35 read as follows:

36 There shall be a chief executive officer of each department to be
37 known as: (1) The secretary of social and health services, (2) the

1 director of ecology, (3) the director of labor and industries, (4) the
2 director of agriculture, (5) the director of fish and wildlife, (6) the
3 secretary of transportation, (7) the director of licensing, (8) the
4 director of general administration, (9) the director of community,
5 trade, and economic development, (10) the director of veterans affairs,
6 (11) the director of revenue, (12) the director of retirement systems,
7 (13) the secretary of corrections, (14) the secretary of health, (15)
8 the director of financial institutions, (16) the director of the
9 department of archaeology and historic preservation, and (17) the
10 director of early learning.

11 Such officers(~~(, except the director of fish and wildlife,)~~) shall
12 be appointed by the governor, with the consent of the senate, and hold
13 office at the pleasure of the governor. (~~(The director of fish and~~
14 ~~wildlife shall be appointed by the fish and wildlife commission as~~
15 ~~prescribed by RCW 77.04.055.)~~)

16 **Sec. 130.** RCW 69.30.070 and 1994 c 264 s 40 are each amended to
17 read as follows:

18 Any certificate of approval issued under the provisions of this
19 chapter shall not relieve any person from complying with the laws,
20 rules and/or regulations of the (~~(department)~~) director of fish and
21 wildlife, relative to shellfish.

22 **Sec. 131.** RCW 79.105.430 and 2005 c 155 s 106 are each amended to
23 read as follows:

24 (1) The abutting residential owner to state-owned shorelands,
25 tidelands, or related beds of navigable waters, other than harbor
26 areas, may install and maintain without charge a dock on the areas if
27 used exclusively for private recreational purposes and the area is not
28 subject to prior rights, including any rights of upland, tideland, or
29 shoreland owners as provided in RCW 79.125.400, 79.125.460, 79.125.410,
30 and 79.130.010. The dock cannot be sold or leased separately from the
31 upland residence. The dock cannot be used to moor boats for commercial
32 or residential use. This permission is subject to applicable local,
33 state, and federal rules and regulations governing location, design,
34 construction, size, and length of the dock. Nothing in this subsection
35 (1) prevents the abutting owner from obtaining a lease if otherwise
36 provided by law.

1 (2) The abutting residential owner to state-owned shorelands,
2 tidelands, or related beds of navigable waters, other than harbor
3 areas, may install and maintain a mooring buoy without charge if the
4 boat that is moored to the buoy is used for private recreational
5 purposes, the area is not subject to prior rights, including any rights
6 of upland, tideland, or shoreland owners as provided in RCW 79.125.400,
7 79.125.460, 79.125.410, and 79.130.010, and the buoy will not obstruct
8 the use of mooring buoys previously authorized by the department.

9 (a) The buoy must be located as near to the upland residence as
10 practical, consistent with applicable rules and regulations and the
11 provisions of this section. The buoy must be located, or relocated if
12 necessary, to accommodate the use of lawfully installed and maintained
13 buoys.

14 (b) If two or more residential owners, who otherwise qualify for
15 free use under the provisions of this section, are in dispute over
16 assertion of rights to install and maintain a mooring buoy in the same
17 location, they may seek formal settlement through adjudication in
18 superior court for the county in which the buoy site is located. In
19 the adjudication, preference must be given to the residential owner
20 that first installed and continually maintained and used a buoy on that
21 site, if it meets all applicable rules, regulations, and provisions of
22 this section, and then to the owner of the residential property nearest
23 the site. Nothing in this section requires the department to mediate
24 or otherwise resolve disputes between residential owners over the use
25 of the same site for a mooring buoy.

26 (c) The buoy cannot be sold or leased separately from the abutting
27 residential property. The buoy cannot be used to moor boats for
28 commercial or residential use, nor to moor boats over sixty feet in
29 length.

30 (d) If the department determines that it is necessary for secure
31 moorage, the abutting residential owner may install and maintain a
32 second mooring buoy, under the same provisions as the first, the use of
33 which is limited to a second mooring line to the boat moored at the
34 first buoy.

35 (e) The permission granted in this subsection (2) is subject to
36 applicable local, state, and federal rules and regulations governing
37 location, design, installation, maintenance, and operation of the
38 mooring buoy, anchoring system, and moored boat. Nothing in this

1 subsection (2) prevents a boat owner from obtaining a lease if
2 otherwise provided by law. This subsection (2) also applies to areas
3 that have been designated by the commissioner or the director of fish
4 and wildlife ((~~commission~~)) as aquatic reserves.

5 (3) This permission to install and maintain a recreational dock or
6 mooring buoy may be revoked by the department, or the department may
7 direct the owner of a recreational dock or mooring buoy to relocate
8 their dock or buoy, if the department makes a finding of public
9 necessity to protect waterward access, ingress rights of other
10 landowners, public health or safety, or public resources.
11 Circumstances prompting a finding of public necessity may include, but
12 are not limited to, the dock, buoy, anchoring system, or boat posing a
13 hazard or obstruction to navigation or fishing, contributing to
14 degradation of aquatic habitat, or contributing to decertification of
15 shellfish beds otherwise suitable for commercial or recreational
16 harvest. The revocation may be appealed as provided for under RCW
17 79.105.160.

18 (4) Nothing in this section authorizes a boat owner to abandon a
19 vessel at a recreational dock, mooring buoy, or elsewhere.

20 **Sec. 132.** RCW 79.135.030 and 2005 c 155 s 714 are each amended to
21 read as follows:

22 (1) If a person wrongfully takes shellfish or causes shellfish to
23 be wrongfully taken from the public lands and the wrongful taking is
24 intentional and knowing, the person is liable for damages of treble the
25 fair market retail value of the amount of shellfish wrongfully taken.
26 If a person wrongfully takes shellfish from the public lands under
27 other circumstances, the person is liable for damages of double the
28 fair market value of the amount of shellfish wrongfully taken.

29 (2) For purposes of this section, a person "wrongfully takes"
30 shellfish from public lands if the person takes shellfish: (a) Above
31 the limits of any applicable laws that govern the harvest of shellfish
32 from public lands; (b) without reporting the harvest to the department
33 of fish and wildlife or the department where the reporting is required
34 by law or contract; (c) outside the area or above the limits that an
35 agreement or contract from the department allows the harvest of
36 shellfish from public lands; or (d) without a lease or purchase of the

1 shellfish where the lease or purchase is required by law prior to
2 harvest of the shellfish.

3 (3) The remedies in this section are for civil damages and shall be
4 proved by a preponderance of the evidence. The department may file a
5 civil action in Thurston county superior court or the county where the
6 shellfish were taken against any person liable under this section.
7 Damages recovered under this section shall be applied in the same way
8 as received under geoduck harvesting agreements authorized by RCW
9 79.135.210.

10 (4) For purposes of the remedies created by this section, the
11 amount of shellfish wrongfully taken by a person may be established
12 either:

13 (a) By surveying the aquatic lands to reasonably establish the
14 amount of shellfish taken from the immediate area where a person is
15 shown to have been wrongfully taking shellfish;

16 (b) By weighing the shellfish on board any vessel or in possession
17 of a person shown to be wrongfully taking shellfish; or

18 (c) By any other evidence that reasonably establishes the amount of
19 shellfish wrongfully taken.

20 The amount of shellfish established by (a) or (b) of this
21 subsection shall be presumed to be the amount wrongfully taken unless
22 the defendant shows by a preponderance of evidence that the shellfish
23 were lawfully taken or that the defendant did not take the shellfish
24 presumed to have been wrongfully taken. Whenever there is reason to
25 believe that shellfish in the possession of any person were wrongfully
26 taken, the department or the department of fish and wildlife may
27 require the person to proceed to a designated off-load point and to
28 weigh all shellfish in possession of the person or on board the
29 person's vessel.

30 (5) This civil remedy is supplemental to the state's power to
31 prosecute any person for theft of shellfish, for other crimes where
32 shellfish are involved, or for violation of rules of the ((department))
33 director of fish and wildlife.

34 **Sec. 133.** RCW 79.135.230 and 2005 c 155 s 718 are each amended to
35 read as follows:

36 The department may enter into agreements with the ((department))

1 director of fish and wildlife for the development of an intensive
2 management plan for geoducks including the development and operation of
3 a geoduck hatchery.

4 **Sec. 134.** RCW 79.135.320 and 2005 c 155 s 712 are each amended to
5 read as follows:

6 (1) In the event that the director of fish and wildlife
7 (~~commission~~) approves the vacation of the whole or any part of a
8 reserve, the department may vacate and offer for lease the parts or all
9 of the reserve as it deems to be for the best interest of the state,
10 and all moneys received for the lease of the lands shall be paid to the
11 department.

12 (2) Notwithstanding RCW 77.60.020, subsection (1) of this section,
13 or any other provision of state law, the state oyster reserves in Eld
14 Inlet, Hammersley Inlet, or Totten Inlet, situated in Mason or Thurston
15 counties shall permanently be designated as state oyster reserve lands.

16 **Sec. 135.** RCW 79.135.410 and 2005 c 155 s 715 are each amended to
17 read as follows:

18 (1) The maximum daily wet weight harvest or possession of seaweed
19 for personal use from all state-owned aquatic lands and all privately
20 owned tidelands is ten pounds per person. The department in
21 cooperation with the (~~department~~) director of fish and wildlife may
22 establish seaweed harvest limits of less than ten pounds for
23 conservation purposes. This section shall in no way affect the ability
24 of any state agency to prevent harvest of any species of marine aquatic
25 plant from lands under its control, ownership, or management.

26 (2) Except as provided under subsection (3) of this section,
27 commercial harvesting of seaweed from state-owned aquatic lands, and
28 all privately owned tidelands is prohibited. This subsection shall in
29 no way affect commercial seaweed aquaculture.

30 (3) Upon mutual approval by the department and the (~~department~~)
31 director of fish and wildlife, seaweed species of the genus *Macrocystis*
32 may be commercially harvested for use in the herring spawn-on-kelp
33 fishery.

34 (4) Importation of seaweed species of the genus *Macrocystis* into
35 Washington state for the herring spawn-on-kelp fishery is subject to
36 the fish and shellfish disease control policies of the (~~department~~)

1 director of fish and wildlife. Macrocyctis shall not be imported from
2 areas with fish or shellfish diseases associated with organisms that
3 are likely to be transported with Macrocyctis. The department shall
4 incorporate this policy on Macrocyctis importation into its overall
5 fish and shellfish disease control policies.

6 **Sec. 136.** RCW 87.84.061 and 1994 c 264 s 79 are each amended to
7 read as follows:

8 The water in any natural or impounded lake, wholly or partially
9 within the boundaries of an irrigation and rehabilitation district,
10 together with all use of said water and the bottom and shore lines to
11 the line established by the highest level where water has been or shall
12 be stored in said lake, shall be regulated, controlled and used by the
13 irrigation and rehabilitation district in order to further the health,
14 safety, recreation and welfare of the residents in the district and the
15 citizens and guests of the state of Washington, subject to rights of
16 the United States bureau of reclamation and any irrigation districts
17 organized under the laws of the state of Washington.

18 In addition to the powers expressly or impliedly enumerated above,
19 the directors of an irrigation and rehabilitation district shall have
20 the power and authority to:

21 (1) Control and regulate the use of boats, skiers, skin divers,
22 aircraft, ice skating, ice boats, swimmers or any other use of said
23 lake, by means of appropriate rules and regulations not inconsistent
24 with state fish, game or aeronautics laws.

25 (2) Expend district funds for the control of mosquitoes or other
26 harmful insects which may affect the use of any lake located in the
27 district: PROVIDED, That the state department of social and health
28 services gives its approval in writing to any district program
29 instituted under the authority of this item. District funds may be
30 expended for mosquito and insect control or other district projects or
31 activities even though it may be necessary to place chemicals or carry
32 on activities on areas located outside of an irrigation and
33 rehabilitation district's boundaries. These funds may be transferred
34 to the jurisdictional health department for the purpose of carrying out
35 the provisions of this item.

36 (3) Except for state highways, control, regulate or prohibit by
37 means of rules and regulations, the building, construction, placing or

1 allowing to be placed from adjoining land, sand, gravel, dirt, rock,
2 tires, lumber, logs, bottles, cans, garbage and trash, or any
3 loathsome, noxious substances or materials of any kind, and any piling,
4 causeways, fill, roads, culverts, wharfs, bulkheads, buildings,
5 structures, floats, or markers, in, on or above the line established by
6 the highest level where water has been or shall be stored in said lake,
7 located in the district, in order to further the interests of the
8 citizens of the state of Washington, and residents of the district.

9 (4) Except for state highways, control, regulate and require the
10 placing, maintenance and use of culverts and boat accesses under and
11 through existing fills constructed over and/or across any lake located
12 within the district to facilitate water circulation, navigation and the
13 reduction of flood danger.

14 (5) Control the taking of carp or other rough fish located in the
15 district and including the right to grant or sell an exclusive or
16 concurrent franchise for the taking of carp or other rough fish,
17 providing the ((department)) director of fish and wildlife gives
18 ((their)) the director's approval in writing to any district project
19 regarding the capture, or sale of fish.

20 (6) Control and regulate by means of rules and regulations the
21 direct or indirect introduction into any lake within the district of
22 any human, animal or industrial waste products, sewage, effluent or
23 byproducts, treated or untreated: PROVIDED, That the state department
24 of ecology gives its approval in writing to any district program
25 instituted under this section, and nothing herein shall be deemed to
26 amend, repeal, supersede, or otherwise modify any laws or regulations
27 relating to public health or to the department of ecology.

28 (7) Except for state highways, construct, maintain, place, and/or
29 restore roads, buildings, docks, dams, canals, locks, mechanical lifts
30 or any other type of transportation facility; dredge, purchase land, or
31 lease land, or enter into agreements with other agencies or conduct any
32 other activity within or without the district boundaries in order to
33 carry out district projects or activities to further the recreational
34 potential of the area.

35 **Sec. 137.** RCW 90.03.360 and 1994 c 264 s 85 are each amended to
36 read as follows:

37 (1) The owner or owners of any water diversion shall maintain, to

1 the satisfaction of the department of ecology, substantial controlling
2 works and a measuring device constructed and maintained to permit
3 accurate measurement and practical regulation of the flow of water
4 diverted. Every owner or manager of a reservoir for the storage of
5 water shall construct and maintain, when required by the department,
6 any measuring device necessary to ascertain the natural flow into and
7 out of said reservoir.

8 Metering of diversions or measurement by other approved methods
9 shall be required as a condition for all new surface water right
10 permits, and except as provided in subsection (2) of this section, may
11 be required as a condition for all previously existing surface water
12 rights. The department may also require, as a condition for all water
13 rights, metering of diversions, and reports regarding such metered
14 diversions as to the amount of water being diverted. Such reports
15 shall be in a form prescribed by the department.

16 (2) Where water diversions are from waters in which the salmonid
17 stock status is depressed or critical, as determined by the
18 (~~department~~) director of fish and wildlife, or where the volume of
19 water being diverted exceeds one cubic foot per second, the department
20 shall require metering or measurement by other approved methods as a
21 condition for all new and previously existing water rights or claims.
22 The department shall attempt to integrate the requirements of this
23 subsection into its existing compliance workload priorities, but shall
24 prioritize the requirements of this subsection ahead of the existing
25 compliance workload where a delay may cause the decline of wild
26 salmonids. The department shall notify the department of fish and
27 wildlife of the status of fish screens associated with these
28 diversions.

29 This subsection (2) shall not apply to diversions for public or
30 private hatcheries or fish rearing facilities if the diverted water is
31 returned directly to the waters from which it was diverted.

32 NEW SECTION. **Sec. 138.** RCW 77.04.013 (Findings and intent) and
33 1995 1st sp.s. c 2 s 1 are each repealed.

34 NEW SECTION. **Sec. 139.** The code reviser is directed to put the

1 defined terms in RCW 77.08.010 in alphabetical order.

--- **END** ---